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1789

REPORTS OF COMMITTEES

OF THE

SENATE OF THE UNITED STATES

FOR THE

FIRST AND SECOND SESSIONS OF THE FORTY-FIFTH CONGRESS,

1877-'78.

IN THREE VOLUMES.

Volume 1 contains Nos. 1 to 25 (1st session) and Nos. 25 (pt. 2) to 209 (2d session).
Volume 2 contains Nos. 210 to 512 inclusive.
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TO THE

REPORTS OF COMMITTEES

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SENATE OF THE UNITED STATES

FOR THE

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45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 1.

IN THE SENATE OF THE UNITED STATES.

OCTOBER 31, 1877.—Ordered to be printed.

Mr. HARRIS, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to which was referred the petition of T. Worthington, having carefully examined the same, submit the following report:

The petition states that on the 4th May, 1861, the quartermaster at Camp Dennison, in the State of Ohio, advertised for proposals to supply the troops stationed there with water; that petitioner proposed to supply the water by means of steam at 15 cents per 100 gallons, which he says was the lowest bid by 35 cents per 100 gallons.

That his bid was accepted on the 6th May, 1861, and he established his engine and commenced the delivery on the 10th May, 1861.

That "the troops violently refused to receive the water because of the erection between the 6th and 10th of May of a slaughter-house about one mile above the camp, from which the offal was thrown into the river."

That he was compelled by the order of the commandant of the camp to deliver water from a point on the river about 1½ miles above the center of the camp, being three times the distance to the nearest point on the river, which he says was the point contemplated by the contract.

That the quartermaster frequently urged him to abandon the contract, and deferred making any written contract with him until the 16th May. When petitioner insisted upon a written contract, he was requested by the quartermaster to write the memorandum of an agreement on his part, stating also at what rate he would furnish any additional quantity of water over the quantity mentioned in the advertisement, and that he wrote the following:

CINCINNATI, *May* 16, 1861.

I do hereby agree to furnish 12,000 to 18,000 troops at Camp Dennison, Ohio, with water at the rate of 15 cents per 100 gallons, 1½ gallons per man per day, and any additional amount required, at the rate of 40 cents per 100 gallons.

T. WORTHINGTON.

That the quartermaster did not sign this contract, because he considered his advertisement sufficiently specific as to the terms of the contract.

That all subsequent settlements were made upon the basis of the above memorandum.

That the advertisement of the quartermaster shows that the water was to be taken from the nearest point on the river, and delivered into casks to be provided by the quartermaster for its reception in the camp of each company.

That the casks were not provided and put in position by the quartermaster for the reception of the water.

In consideration of the premises as stated, the petitioner states his claim as follows:

Item 1.

2,172,000 gallons water, at 40 cents per 100 gallons	$8,688 00
30,000 gallons water furnished a Michigan battery, at 40 cents per 100 gallons	120 00

Item 2.

Increased expense of hauling 1,560,000 gallons water from above slaughter-house	14,560 00

Item 3.

Increased expense of delivering because of failure of Government as above stated	4,404 00
For use and loss of machinery rendered useless or destroyed by troops	1,357 00
Expense occasioned by excluding water-carts from camp between sunset and sunrise	1,050 00
Making	30,179 00
Upon which he states that he had received up to 1869 the sum of	7,838 00
And claims as balance due	22,341 00

The advertisement of the quartermaster at Camp Dennison is referred to as a material part and containing the terms of the contract, but neither the advertisement nor any pro of whatever of its contents is presented to the committee.

There being no proof in support of the petition, and the petition not even verified by the affidavit of the petitioner, your committee addressed a letter of inquiry to the Secretary of the Treasury, asking for such information as the records of that Department could furnish in respect to the justice of this claim, and in answer received copies of reports of the Third Auditor of 20th March, 1876, and 20th March, 1877, and a statement from the office of the Second Comptroller, which are made a part of this report, from which it appears that the claimant was paid by the quartermaster, at different times, for the water delivered under this alleged contract, the sum of $2,971.

It is fair to presume, in the absence of proof, that that was the full amount, supposed by the quartermaster, who was one of the contracting parties, to be due. Not satisfied with this, however, in 1867 the petitioner applied to the Treasury Department for further allowance, and on the 12th March, 1867, there was allowed and paid to him the further sum of $3,444.

Still not content, in 1869 he appealed again to the Department for further allowance, when the account was re opened and he was allowed and paid the sum of $1,823.

Again, in 1877, he appealed to the Treasury Department to re-open the account and make him an additional allowance, and also petitioned Congress for relief, but in that petition he only asked to be paid the sum of $6,957, as follows:

For hire and use of steam-engine 48 days	$1,557 00
For increased expense in delivering water by reason of exclusion from camp at night	1,056 00
For like expense in consequence of failure of Government to keep receiving-casks	4,344 00
Making	6,957 00

This petition was referred to the Senate Committee on Claims, and returned with an adverse report, (see Senate Report No. 595, 2d session 44th Congress,) but in the petition under consideration he claims $22.341 as the balance due him.

But assuming petitioner's contract to be as it is stated in the petition, of which there is no proof, by its terms the petitioner was bound to furnish 18,000 men with 1½ gallons of water each per day at the rate of 15 cents per 100 gallons, which makes 27,000 gallons per day.

He commenced the delivery of water on the 10th May, 1861, and continued until 26th June, 1861, making 48 days, which, at 27,000 gallons per day, makes 1,296,000 gallons that the Government had a right to demand the delivery of at 15 cents per 100 gallons, according to his own construction of the contract, which would amount to $1,944.

	Gallons.
From the report of Second Comptroller it appears that petitioner claimed to have delivered up to the 19th of May, 10 days, 1½ gallons per man per day, 12,000 men	180,000
And from May 19 to 31, 12 days, 3 gallons per man per day, 12,000 men	432,000
And from 1st to 26th June, 26 days, 5 gallons per man per day, 12,000 men	1,560,000
Making	2,172,000
Deduct quantity that he was bound to deliver at 15 cents per 100 gallons	1,296,000
It leaves as excess over contract quantity	876,000
Which, at 15 cents per 100 gallons, amounts to	$1,314 00
Add to this the contract quantity	1,944 00
And it makes	$3,258 00

But petitioner claims that under the contract he is entitled to 40 cents per 100 gallons for this excess.

At that price the excess of 876,000 gallons over contract quantity amounts to	$3,504 00
Add to this contract quantity at contract price, amounting to	1,944 00
And it makes	5,448 00
The report of Second Comptoller shows that he has already received	8,238 00
Which is	2,790 00

More than he was entitled to, admitting the contract to have been exactly as he states it.

In the opinion of the committee, this amount has fully indemnified the claimant for any damages he may have sustained by reason of the failure of the quartermaster to place casks in position to receive the water, as well as the exclusion of water-carts from the camp between sunset and sunrise.

The committee, being satisfied that the claimant has been fully paid for all water delivered and all damages sustained by him in the execution of his contract, recommend the rejection of the claim.

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45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 2.

IN THE SENATE OF THE UNITED STATES.

OCTOBER 31, 1877.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill No. S. 171.]

The Committee on Claims, to whom was referred the petition of Enoch Totten, administrator of William A. Lloyd, deceased, with accompanying papers, having had the same under consideration, submit the following report:

A bill for the relief of this claimant was introduced in the Senate May 15, 1876, and referred to the Committee on Claims. The bill was favorably reported by the committee, and subsequently passed the Senate. It was not acted upon by the House.

The claimant alleges that he is the administrator of the estate of William A. Lloyd, deceased; that in July, 1861, Abraham Lincoln, then President of the United States, made a contract with said Lloyd, by which said Lloyd agreed to proceed into the States then in rebellion and procure plans of fortifications and such other information as might be beneficial to the United States, and transmit such information from time to time to the President of the United States; that for this service the President agreed to pay said Lloyd at the rate of $200 per month; that said Lloyd performed and fully completed his part of the contract, remaining within the lines of the confederate armies until late in April, 1865, and performing duty until June 5, 1865; that when he returned to Washington, in June, 1865, President Lincoln was dead and the Secretary of War refused to pay him anything more than certain expenses incurred by him, and refused to pay him for his services in accordance with his contract with the President. Claimant therefore asks that, as such administrator, he may be paid the sum of $9,753.32, with interest thereon from the 5th day of June, 1865, as money justly due the estate of said Lloyd, deceased.

It seems that in 1865 Lloyd himself presented his claim for $11,980 to the War Department, and on June 16th of that year W. N. Winthrop, major and judge advocate, in the absence of the Advocate-General, made a report to the Secretary of War, in which, after examining the testimony at some length, he recommended the allowance of the claim by that Department. The Secretary of War, however, again referred the claim for examination by the Judge-Advocate-General, J. Holt, in person, who, on June 26, 1865, returned the papers, stating that although they "made out a strong *prima facie* case in support of the claim, there are circumstances surrounding the transaction and the testimony offered which suggest further investigation as necessary before a final

determination is arrived at. In the absence of all record evidence of the existence of the contract alleged to have been made with the claimant by the late President, and in the absence, too, of any correspondence with him, and considering the magnitude of the sum demanded, it is believed that the claimant should be turned over to Congress or to the Court of Claims, where his claim and the proof adduced in its support can be subjected to tests which the executive branch of the Government has no power to apply."

Additional affidavits were, however, filed by Mr. Lloyd in support of his claim, and they having been examined by Judge-Advocate-General Holt, he returned them to the Secretary of War, August 16, 1865, with a letter, in which, after going over this additional evidence in detail, he uses this language:

It is proper now to observe that the additional statements and testimony presented since the date of the reports of this bureau, recommending a reference of the case to Congress or the Court of Claims, greatly weaken, if they do not entirely overcome, the objections on which that recommendation was based. The claim, in its present aspect, is as fully and satisfactorily made out as one of its peculiar nature could well be by *ex parte* testimony; and the belief is entertained that its payment would be justified.

The claimant was only allowed, however, the sum of $2,380 for actual expenses by the Department, and for the balance of $9,753.32 his administrator, who now prosecutes this petition before Congress, brought suit in the Court of Claims, filing his petition before that court May 22, 1871.

Testimony was taken, and on February 9, 1874, a decision was reached. The findings of fact by the court were as follows:

First. On the 13th day of July, 1861, William A. Lloyd, the claimant's intestate, entered into a contract in writing with the President of the United States, whereby it was agreed that Lloyd should proceed South and learn the number of troops stationed in the different points and cities in the insurrectionary States, procuring plans of fortifications and forts, and gaining all other information that might be beneficial to the Government of the United States, and report the facts to the President, for which service it was agreed he should be paid $200 per month.

Second. Lloyd proceeded under a pass in writing to that effect, given him by the President, within the rebel lines, and remained there during the entire period of the war, collecting and from time to time transmitting information, traveling from point to point, running great risks and suffering imprisonment at various times. After the close of the war he presented his account for services to the Secretary of War, and was, in October, 1865, paid $2,380, it being at the same time understood and agreed that such payment was to re-imburse him his expenses, and that by the acceptance thereof his demand for services rendered would not be compromised.

Third. The services of Lloyd were continuous during the war, all of which time he was within the confederate lines, and no payment or adjustment of his account was made by defendants' officers. He re-entered the United States lines at Danville, Va., on the 27th of April, 1865, but did not reach Washington until the 5th day of June, 1865.

The court, as conclusion of law, found that the claim was not barred by the statute of limitations; "but being equally divided upon the question whether the President possessed power or authority to bind the defendants by the contract which he entered into with the claimant's intestate, as set forth in the foregoing findings," for the purposes of an appeal dismissed the petition.

An appeal was perfected to the Supreme Court, which, at the October term, 1875, rendered a decision holding that the President had undoubted authority, as commander-in-chief of the armies of the United States, "to employ secret agents to enter the rebel lines and obtain information respecting the strength, resources, and movements of the enemy, and contracts to compensate such agents are so far binding upon the Government as to render it lawful for the President to direct pay-

ment of the amount stipulated, out of the contingent fund under his control." The court then proceed to say:

Our objection is not to the contract, but to the action upon it in the Court of Claims. The service stipulated by the contract was a secret service; the information sought was to be obtained clandestinely, and was to be communicated privately; the employment and the service were to be equally concealed. Both employer and agent must have understood that the lips of the other were to be sealed forever respecting the relation of either to the matter. This condition of engagement was implied from the nature of the employment, and is implied in all secret employments of the Government in time of war, or upon matters affecting our foreign relations, where a disclosure of the service might compromise or embarrass our Government in its public duties, or endanger the person or injure the character of the agent. If upon contracts of such a nature an action against the Government could be maintained in the Court of Claims, whenever an agent should deem himself entitled to greater or different compensation than that awarded to him, the whole service in any case, and the manner of its discharge, with the details of dealings with individuals and officers, might be exposed, to the serious detriment of the public. A secret service, with liability to publicity in this way, would be impossible; and as such services are sometimes indispensable to the Government, its agents in those services must look for their compensation to the contingent fund of the Department employing them, and to such allowance from it as those who dispense that fund may award. The secrecy which such contracts impose precludes any action for their enforcement. The publicity produced by an action would itself be a breach of a contract of that kind, and thus defeat a recovery.

It may be stated, as a general principle, that public policy forbids the maintenance of any suit in a court of justice the trial of which would inevitably lead to the disclosure of matters which the law itself regards as confidential, and respecting which it will not allow the confidence to be violated. On this principle suits cannot be maintained which would require a disclosure of the confidences of the confessional, or those between husband and wife, or of communications by a client to his counsel for professional advice, or of a patient to his physician, for a similar purpose. Much greater reason exists for the application of the principle to cases of contract for secret services with the Government, as the existence of a contract of that kind is itself a fact not to be disclosed.

For the reasons thus set out, the decision of the Court of Claims dismissing the petition of claimant was affirmed.

We may further say that we have examined the evidence which was submitted to the Court of Claims, and find that it is fully sufficient to substantiate the findings of facts made by that court. It is also made to appear, by proper evidence, that the claimant was duly appointed administrator of the estate of said Lloyd, May 13, 1871; and it also appears from the testimony before the Court of Claims, though not referred to in the findings of that court, that the claimant was thoroughly loyal to the United States Government during the late rebellion.

And thus, to sum the case up briefly, it appears that the claim was duly presented to the proper Department at once on Lloyd's return from the South, accompanied by such evidence as to secure a recommendation for its payment from the Judge-Advocate General, after three successive examinations in his bureau; that payment being refused in that Department, and claimant having died, his administrator, duly appointed, commenced suit within the period fixed by the statute of limitations in the Court of Claims; that all the facts necessary to support the claim were found in favor of claimant by the Court of Claims, the judges of that court being divided, however, as to the authority of the President to make the contract sued on; and that the Supreme Court held that the President had authority to make such contract, but held against the claimant on the ground that it was against public policy to allow claimant to prosecute such a demand in a court of justice.

Under the view taken by the Supreme Court, this case would seem to be one in which it is peculiarly the duty of Congress to grant relief by carrying out the contract under and in faith of which the services were rendered, which contract that court fully recognizes; and in that view,

we do not deem it necessary to advert to circumstances in the case which would seem to entitle it to very favorable consideration, such as the sufferings of the deceased in rebel prisons while being held as a Union spy, his subsequent suffering and death from diseases contracted during such confinement, and the value of the information procured and transmitted by him to President Lincoln.

If claimant is not entitled to relief here, then he is without remedy anywhere. In support of his rights to his compensation, see the case of Jacques, (Forty-second Congress, Senate Report 64.)

On an examination of the contract, however, as set out in evidence, we do not find that there was any provision therein for the repayment to Mr. Lloyd of his expenses. The only reference to compensation is as follows: "For which service Mr. Lloyd shall be paid two hundred dollars per month." We find, also, that Mr. Lloyd re-entered the Federal lines on the 27th day of April, 1865, and he, of course, cannot claim compensation after that time. We therefore consider that he should be allowed compensation from July 13, 1861, to April 27, 1865, at $200 per month, amounting to $9,093.33, from which is to be deducted the amount allowed and paid him by the War Department as expenses, to wit, $2,380, leaving, as now due his estate, the sum of $6,713.33. We do not think that interest on this amount should be allowed claimant.

Your committee therefore report herewith a bill authorizing and requiring the Secretary of the Treasury to pay to Enoch Totten, as administrator of the estate of William A. Lloyd, deceased, the sum of $6,713.33, in full for the personal services of said William A. Lloyd rendered in pursuance of a contract made with Abraham Lincoln, President of the United States, and recommended that said bill do pass.

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45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 3.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 6, 1877.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 53.]

That on the night of the 25th of October, A. D. 1869, the post-office building at Beatrice, Nebr., was entered by burglars, and United States postage-stamps to the amount of $175 and other property were stolen therefrom. These facts are stated in the memorial of Albert Towle, the postmaster. The affidavits of five prominent business men of Beatrice verify the sworn statement of Postmaster Towle. It appears from the papers that the utmost diligence, faithfulness, and care had been exercised in the administration of the affairs of the office; that the said post-office was kept in a new and substantially-constructed building, used exclusively for such purpose; that the doors were securely locked and the windows carefully fastened; that the postage-stamps were deposited in the drawer of a table, which was locked. It being a small office, there was no safe. It further appears that one of the windows of the office was entirely broken out in the night-time, the drawer of the table forced open, the postage-stamps taken therefrom, and other property of much greater value stolen from other parts of the office by the burglars. It also appears that prompt and most thorough efforts were made by the petitioner for the recovery of the property and the apprehension and punishment of the thieves. A communication from the Post-Office Department, showing that Postmaster Towle had at the time of the robbery a somewhat larger amount of stamps in his possession than that named in his memorial, accompanies this report. A petition, signed by all the prominent citizens within the post-office delivery, indorsing the high character of the petitioner as a man and a public officer, is also one of the papers accompanying this report. He is still the postmaster, and has had the longest continuous service of any officer in the State of Nebraska.

In view of all the facts in the case, the committee unanimously recommend that Albert Towle, postmaster at Beatrice, Nebr., be reimbursed for the loss of postage-stamps to the amount of $175, and, to secure that result, present the accompanying bill with the recommendation that it do pass.

The same action was taken by this committee during the last session of the Forty-fourth Congress, and a similar bill was passed, without objection, by the Senate.

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 4.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 8, 1877.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Christian C. Bowers, administratrix of the estate of Giles Bowers, deceased, of Euchee Anna, Walton County, Florida, have considered the same, and submit the following report:

The petitioner represents that she is a citizen of Walton County, in the State of Florida; that she is the widow of Giles Bowers, deceased, late of said county of Walton, who died January 15, 1876; that she was duly appointed administratrix of the estate of said deceased by the county court of said county of Walton on the 21st day of January, 1876.

She further represents in her said petition that on the 23d day of September, 1864, the Federal Army took from her said husband the following property, to wit:

100	head of cattle of the value of	$1,500 00
15	head of sheep of the value of	60 00
2	head of hogs of the value of	16 00
2	head of horses of the value of	300 00
400	pounds of bacon of the value of	100 00
150	bushels of corn of the value of	375 00
2,000	pounds of butter of the value of	60 00
10	bushels of pease of the value of	25 00
100	bushels of potatoes of the value of	100 00
10	gallons of sirup of the value of	15 00
25	pounds of butter of the value of	8 00
25	pounds of lard of the value of	6 25

She further represents that at various other times in the years 1863,-'64-'65 the Federal Army also took from said husband 150 other head of cattle of the value of $2,250.

The view which we take of this claim renders it unnecessary to go into any examination of the proofs which accompany the petition. The claim was cognizable before the Southern Claims Commission. The only reason assigned in the petition, or at all, why the claim was not prosecuted before that court within the time allowed by law is, that said Giles Bowers in his life-time made out the said claim and put it in the hands of an attorney, (it is not stated what attorney nor when it was placed in his hands,) and that the attorney failed to prosecute it in the court where it was cognizable.

The last items charged in the petition are dated September 23, 1864.

The time for the presentation of claims before this commission expired March 10, 1873.

This claim is now barred by the statute. It was barred more than three years before the death of Bowers. The statute of limitation is a strictly legal defense, and if a satisfactory equitable reason were given why the claim was not prosecuted to the court within the time limited by law, your committee might not invoke this "statute of repose," but as no such equitable reason is given, your committee recommend, without further investigation, that the claim be not allowed.

O

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 5.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 8, 1877.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 99.]

The Committee on Claims, to whom was referred the bill (S. 99) for the relief of the estate of Amos Ireland, deceased, have duly examined the same, and submit the following report:

Your committee find that, during the Forty-fourth Congress, a bill similar to the one now presented was introduced in the Senate and referred to your committee for examination and report, and your committee, on June 21, 1876, submitted to the Senate the following report, to wit:

The Committee on Claims, to whom was referred the bill for the relief of Margaret Ireland, widow of Amos Ireland, have had the same under consideration, and respectfully report as follows:

Your committee find, from the evidence filed in the case, that Amos Ireland was loyal to the United States throughout the war; that he was employed under contract as keeper of the light-vessel stationed at Brandt Island Shoals, in North Carolina, at a salary of $500 per annum, and that he performed service in that capacity from December 31, 1860, up to June 30, 1861, for which he received no pay. Your committee addressed a letter to the Secretary of the Treasury, and received through him, from the Light-House Board, the information that Amos Ireland was employed as keeper of the light-vessel at Brandt Island during the year 1860, at a salary of $500 per annum; that the accounts of the superintendent of lights show that he was paid up to and including December 31, 1860; that no accounts were received from the superintendent during the year 1861; and, although the presumption is that some service was rendered, there is no positive evidence of the fact on file in this office, and that it is not known positively at what time light-house service was discontinued at the said station, as no direct order or instructions were issued from the Light-House Office with reference thereto. Your committee find the reply of the Secretary confirmatory of the facts set forth in the evidence, as far as the records show anything in relation to the case, and are satisfied that the claim is a just one. In view of the fact that service was discontinued on all mail-routes on May 31, 1861, at which time all authority of the United States was suspended in North Carolina, your committee recommend payment only from December 31, 1860, until May 31, 1861, at the rate of $500 per annum, payable to the administrator of the estate of Amos Ireland, deceased, upon furnishing satisfactory proof of qualification as administrator, and recommend the passage of the bill as amended.

The bill (S. 99) now before your committee, is a copy of the bill so reported to the Senate as above stated. After a careful re-examination of the case, your committee concur in the facts and conclusions stated in the foregoing report, and recommend the passage of the bill.

O

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 6.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 8, 1877.—Ordered to be printed.

Mr. HAMLIN, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 83.]

The Committee on Post-Offices and Post-Roads, to whom was referred the petition of Edwin Rogers, postmaster at North Adams, Mass., for relief, having had the same under consideration, respectfully report:

That on or about the 13th day of May, A. D. 1876, said postmaster was robbed of postage-stamps to the amount of $525; that every effort was made through the police authorities to detect the thief, without avail; that the postmaster immediately notified the Department at Washington of the robbery, and a special agent was detailed to examine the case and report the facts to the Department, which was done, and the amount of stamps there stolen was found to be $525. It was also found that the postmaster had used due care with the property of the Government, and that these stamps thus lost or stolen were so lost or stolen without his fault.

No suspicion rests upon the postmaster or his clerks.

The committee recommend the passage of the accompanying bill.

O

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 7.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 9, 1877.—Ordered to be printed.

Mr. MORGAN, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred a claim of Augustin Gachot, having had the same under consideration, submit the following report:

An account is found among the papers which has the following caption: "Camden, State of Arkansas, June 7, 1864. A statement of articles of property destroyed by the soldiers of the United States, under the command of Steele, during the occupancy of Camden, Ark., from the 15th day of April, A. D. 1864, to the 26th day of April, 1864, which articles and prices are as follows."

Following this statement is a list of articles of personal property, such as furniture, provisions, horses, hogs, lumber, cabinet tools, &c., with a value stated for each article, in the aggregate amounting to $1,578.75.

The claimant submits his affidavit attached to his account, dated June 7, 1864, and the affidavits of George P. Leddy and William H. Terrell in support of his claim.

Gachot states that the "account is correct and true, to the best of his knowledge and belief."

He further states that he was sick during the entire time "that the Federal Army occupied the town," and that "they took possession of his house and property by force, and without his knowledge or consent."

It is manifest from these statements that he has no personal knowledge that the soldiers took or destroyed his property, or whether the persons who inflicted the losses upon him were acting under the orders of Federal officers, or were mere trespassers.

The other affiants only state that the facts set forth in "the above account are correct and true, to the best of our knowledge and belief." It does not appear that they have any personal knowledge of the facts on which the claim is based.

The claim is not proven.

Gachot states also that he is a citizen of France, never having renounced his allegiance.

If this fact should relieve him from the liabilities which are common to the occupants of belligerent territory during a time of war, it does not relieve him from the necessity of showing that he observed his duty as a citizen of a neutral State. Being found in a hostile State, he must show that he was not aiding the enemies of the United States,

and was attempting to get away. He is presumed in law to have been there with the intention of remaining, and so a hostile character was impressed upon his property.

We recommend that the claim be rejected and the committee be discharged from its further consideration.

O

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 8.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 13, 1877.—Ordered to be printed.

Mr. TELLER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 149.]

The Committee on Claims, to whom was referred the bill (S. 149) for the relief of Charles B. Varney, with accompanying papers, have had the same under consideration, and find that for more than two years, in 1867, 1868, and 1869, the superintendent in charge of the construction of the custom-house and post-office buildings in Portland, Me., occupied a lot contiguous to said buildings, containing between 8,000 and 9,000 feet, belonging to said Varney, for landing and piling materials thereon. They further find from the certificate of said superintendent that the sum charged ($200) is just and reasonable, but little, if any, more than covering the city taxes on said property.

It further appears from the letter of the Supervising Architect, the successor of the superintendent of said building, that the sum charged is just, and that there would be no question as to its allowance was there any appropriation available from which it properly could be paid. Such not being the case, payment can only be made by provision of Congress therefor.

It further appears, that when the erection of these buildings was begun the Government officer in charge desired to lease this ground of Mr. Varney for several years, at a fixed price, but Mr. Varney refused to make any such contract, saying that he expected to lease it for building, or to sell it in a short time; but he finally agreed to allow it to be used temporarily, on the condition that it should be vacated at any time on forty-eight hours' notice, saying, at the same time, that as he should want it in a very short time he probably would not charge for its use, if it was delivered on demand. Mr. Varney did finally lease it, at $415 per year, to private parties, but was not able to get possession of it for months after the lease was made.

As to the delay in presenting the claim for this rent, it appears that on Mr. Varney's return to Portland, after an absence of some months, about the time of the completion of the buildings, he was unable to find the officer who had charge of the work, and it was only after the lapse of a considerable time, and when the balance of the appropriation out of which he should have been paid was covered into the Treasury, that he succeeded in getting into communication with him.

Under such circumstances, your committee find that there is due to said Charles B. Varney the sum of $200, and therefore report back the bill and recommend its passage.

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 9.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 14, 1877.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 290.]

The Committee on Claims, to whom was referred the petition of James D. Holman, of Portland, Oreg., praying compensation for improvements made by him as a settler upon the public lands, and included within the military reservation of Fort Canby, at Cape Disappointment, (now known as Cape Hancock,) then Oregon, now Washington, Territory, as provided for by the fourteenth section of the Oregon donation-law, approved September 27, 1850, and the act amendatory thereof, approved February 14, 1853, has had the same under consideration, and begs to submit the following report:

Some time in the year 1849, under the Oregon laws, Dr. Elijah White took up and settled upon 640 acres of land situate upon Cape Disappointment, then Oregon, now Washington, Territory, and laid out a town thereon, which he called Pacific City.

On the 20th of April, 1850, White, by deed, sold and conveyed to Holman and his brother, W. C. Holman, a large number of lots and blocks, among which were lots 5 and 6 in block 44, upon which to erect a hotel for public accommodation. Thereupon the Holmans immediately purchased, in San Francisco, a large hotel-building, framed and constructed complete in the States, ready for being erected upon the ground, for which they paid the sum of $16,000 in gold, which building they transported to Pacific City and landed upon said lots 5 and 6 at a further cost of $3,000. That the said building was landed on said lots in July, 1850, and by the 27th of September following was completed. On the 1st of October, 1851, W. C. Holman, by deed of that date, conveyed to J. D. Holman, the petitioner, all his interest in the said lots and buildings.

From the time of his settlement White continued to reside upon and cultivate the said tract of land; and about the fall or winter of 1851–'52 went to San Francisco to meet his family; and, while awaiting at San Francisco the arrival of his family from the States, news reached him that the principal and most valuable portion of his claim had been included within the military reservation, made by executive order of date 26th February, 1852, including also his house, improvements, and nearly all that rendered the claim of any value. Up to the date of the order making this a reservation, White had done and performed all things required of him as a claimant and settler under the act of Congress of the 27th September, 1850, known as the donation-law, and Holman, the petitioner, as his grantee, had made large and valuable improvements upon the lots so purchased as aforesaid, and with the date of the order

establishing the reservation his right to compensation became fixed. It depended upon no subsequent event.

That on February 26, 1852, the President of the United States, by executive order of that date, declared a military reservation at Cape Disappointment, (now Cape Hancock,) then Oregon, now Washington, Territory, which included petitioner's improvements, and as soon thereafter as it became known to petitioner he addressed to the then Secretary of War an application for compensation in pursuance of the provisions of the said act of September 27, 1850, which application is now on file in the War Department. To this application the Secretary of War replied that the valuation of petitioner's improvements would have to be deferred until the surveys of the General Land Office should have reached that point, in order that it might be known officially whether petitioner's improvements were included within the boundaries of the military reservation. Petitioner, as appears from the records and papers, made repeated efforts in the Land Department to have such surveys made as would determine the boundaries of the reservation, so as to determine officially that the improvements were within the same; but all efforts in that direction were unavailing, and the surveys were not so extended until a long time after the date of the order declaring the reservation. No decided action was taken by the War Department in reference to the boundaries of the reservation until 1864. The original orders of the Secretary of War and President were in the following words:

WAR DEPARTMENT,
Washington, February 24, 1852.

SIR: I have the honor to recommend that the following tracts of land in California and Oregon, which have been selected for military purposes by the joint commission for the examination of the Pacific coast, be accordingly reserved from sale or grant, viz:

* * * * * * *

IN OREGON.

Cape Disappointment, at the northern side of the mouth of the Columbia River, Oregon, to include all the land lying within one and a half miles of the southern point of the cape. Point Adams, at the southern side of the mouth of the Columbia River, to include all the land lying within one and a half miles of the northernmost part of the point.

Very respectfully, your obedient servant,

C. M. CONRAD,
Secretary of War.

The PRESIDENT OF THE UNITED STATES.

Approved February 26, 1852.

MILLARD FILLMORE.

A copy of this executive order was transmitted by J. Butterfield, Commissioner of the General Land Office, to John B. Preston, surgeon-general of Oregon, on the 22d April, 1852. On the 22d July, 1852, the petitioner, J. D. Holman, addressed a communication to the Secretary of War in the following words:

PACIFIC CITY, *July* 22, 1852.

The honorable SECRETARY OF WAR:

DEAR SIR: I have learned from the surveyor-general of Oregon Territory that the Government of the United States has made a reservation of land for her own use at Cape Disappointment, at the mouth of the Columbia River, commencing at the most southern point of said cape, thence one mile and one-half due north, all the lands inclusive. The surveyor-general informs me that he has no special instructions to make the survey until he reaches this point in his regular survey. We have ascertained by private survey that the said reservation will inclose the entire improvements of the town of Pacific City, and will embrace all the land that is desirable for a town site.

Now, sir, as good citizens, we do not wish to murmur at the government, as the point is evidently desirable for various purposes of the government; but, sir, would most respectfully represent that, although our improvements are not very extensive, a few of us have almost our entire means invested in improvements, which are in a manner rendered useless to us in consequence of said reservation, and will also cause our little society to decrease instead of increasing, which is a very important matter to families in a new country.

I believe the law makes it the duty of the Secretary of War to cause an assessment of the value to be made of such improvements, &c.

I take this liberty of thus anticipating this matter, hoping you may be pleased to prosecute the business with as much dispatch as possible. The location and character of the buildings I conclude will be useful and convenient to the government.

Will you be pleased at your earliest convenience to inform us as to what time we may hope to have the matter concluded?

I am, dear sir, yours, most respectfully,

J. D. HOLMAN.

This communication bears the following indorsements in the War Department:

ENGINEER'S OFFICE.

Is it certain that the reservation will necessarily embrace Pacific City?

ENGINEER DEPARTMENT, *September* 13, 1852.

Respectfully referred to the Board of Engineers for the Pacific Coast.

(Signed) J. G. TOTTEN,
Brevet Brig. General United States Engineers.

ENGINEER DEPARTMENT, *September* 13, 1852.

The within subject was referred to the Pacific board, and I have the honor to transmit herewith their report.

Respectfully,

J. G. TOTTEN,
Brevet Brig. General United States Engineers.

This report was to the effect that an official survey was required in order to determine whether the improvements of petitioner were within the limits of the reservation.

On the 14th September, 1852, the Secretary of War responded to the petitioner in the following letter:

WAR DEPARTMENT,
Washington, September 14, 1852.

SIR: I received your letter of the 22d July, asking that early measures be taken for the valuation of improvements owned by you and others in Pacific City, Oregon, which you say have been ascertained by a private survey to be within the limits of the reservation made for military purposes at Cape Disappointment.

In reply, I have to state that the valuation cannot be made until a legal survey shall have determined that the improvements are actually within the reservation, and at present I am of opinion that it will have to be deferred until the surveys of the General Land Office shall have reached that point.

Very respectfully, your obedient servant,

C. M. CONRAD,
Secretary of War.

J. D. HOLMAN, Esq.,
Pacific City, Oregon.

The records of the department show that the petitioner repeatedly appealed to the department to change the limits of the reservation so as to exclude his improvements, or otherwise to assess the value thereof and pay him.

On the 15th September, 1864, Richard Delafield, brigadier-general and chief engineer, addressed a communication to Hon. J. M. Edmunds, then Commissioner of the General Land Office, in the following words:

Replying to your letter of 30th August, 1864, I have to say that it is very important to the public interest in charge of this department that the military reservation at Point Adams, mouth of Columbia River, Oregon, ordered by the President 26th February, 1852, should be enforced to the greatest extent practicable. Defensive works for the protection of the entrance to the river have been established at this point, and are nearly completed.

The same is the case with respect to the north point of the entrance, Cape Disappointment, where a like reservation was ordered at the same date by the President, and where like important defenses are nearly completed. I have to request that that reservation also may be retained for the use of the United States.

If there is any survey or diagram in your office showing the outline of Point Adams, when sections 1, 2, 3, and 4 were above high water, I will thank you to supply me with a copy of it and the date when it was made.

Very respectfully, your obedient servant,

RICHARD DELAFIELD,
Brigadier-General and Chief Engineer.

A copy of this communication was sent by Commissioner Edmunds to the register and receiver of the land-office at Vancouver, W. T., on the 22d September, 1864, with the following direction:

In view of the importance attached by the War Department to the military reservation, you are required to strictly enforce the President's order against any interference that may have taken place since the date of the order.

The records further show that on November 15, 1864, the petitioner addressed a letter to Hon. A. G. Henry, then surveyor-general of Washington Territory, desiring information whether there had ever been any definite action upon the part of the United States Government defining the exact boundaries of the reservation at Cape Disappointment, but more especially as regards the Pacific City tract.

The committee is thus particular in referring to these various communications for the purpose of showing the long time that elapsed from the date of the executive order declaring this military reservation, and the time when the official boundaries were determined.

Finally, in June, 1876, the whole case was referred by the Secretary of War to the Judge-Advocate for an opinion; which opinion was given June 15, 1876, and is in the following words:

WAR DEPARTMENT,
June 15, 1876.

In the matter of the claim of James D. Holman for compensation for improvements included in the military reservation at Fort Canby, Washington Territory, in 1852.

To the honorable Secretary of War:

This is a claim of $28,000 for a hotel erected on the site of a projected town near the mouth of the Columbia River, which hotel was afterward included in a military reservation, and having been abandoned by the owner was finally destroyed by fire.

The land upon which the town was laid out appears to have been once occupied by John E. Pickernell, a claimant under the Oregon laws. It is well known that in 1845 the people of Oregon elected delegates, who met in convention, adopted laws and regulations for their government until such time as the United States should extend jurisdiction over them. In this plan of government it was provided that any one wishing to establish a claim of land should designate the extent of his claim by line-marks and have it recorded in the office of the Territorial recorder, the claim not to exceed a mile square, or 640 acres. After the treaty with Great Britain giving the United States exclusive possession south of the parallel of forty-nine, a Territorial government was established by act of Congress approved August 14, 1848; and the existing laws were continued, with the following exception: "All laws heretofore passed in said Territory, making grants of land, or otherwise affecting the title to lands, shall be, and are hereby declared to be, null and void."

In November, 1849, Dr. Elijah White settled upon the land claimed by Pickernell, and induced him to relinquish his interest. Dr. White then sold three undivided twentieths of his land-claim to the firm of J. D. & W. C. Holman, consisting of the present claimant and his brother, Woodford C. Holman. A town, called Pacific City, was laid out, and, April 20, 1850, a large number of lots were segregated by deed to the said firm. Among these lots were numbers 5 and 6, in block 44, situated about a quarter of a mile from the south line of Dr. White's claim, about a mile from the light-house on Cape Disappointment, and about five or six hundred feet from Baker's Bay. Upon these two lots the said firm erected a hotel called the Holman House, or the Pacific Hotel, three stories high in front, and running back 120 feet. Most of the materials

were brought out to San Francisco from Rochester, New York, ready framed. They are said to have cost $16,000 in gold coin in San Francisco, and, owing to the enormous price of freight and labor, the entire hotel is said to have cost $28,000.

September 27, 1850, Congress passed the Oregon donation act, giving 320 acres to each qualified settler, and as much more to his wife, provided he should reside upon and cultivate the land for four consecutive years. Under this act Dr. White made claim to 640 acres for himself and his wife. His notification on file in the General Land Office covers all of fractional sections 4 and 5 in township 9 north, range 11 west, Washington Territory, including the site of Pacific City.

The act contains the following provision: "That all future contracts, by any person or persons entitled to the benefit of this act, for sale of the land to which he or they may be entitled under this act, before he or they have received a patent therefor, shall be void." October 15, 1851, the partnership of the Holmans was dissolved by mutual consent, and Woodford C. Holman's interest in the land upon which they had made improvements, including the hotel, was conveyed to the present claimant for the specified sum of $20,500. This conveyance is not believed to be within the prohibition of the law, inasmuch as Woodford C. Holman was not the donee who was to take title under this act.

With reference to the previous conveyance from Dr. White to the Holmans the following comments upon the act by Mr. Justice Miller are in point. In delivering the opinion of the United States Supreme Court in Lamb *vs.* Davenport (18 Wall., 307) he said: "The act was on its face intended to cover settlements already made, and the careful limitation of this proviso to future contracts of sale, that is, sales made after the passage of the act, raises a strong implication of the validity of such contracts made before the passage of the statute. It was well known that many actual settlers held under such contracts, and while Congress intended to protect the donee from future improvident sales, it left contracts already made undisturbed."

Dr. White continued to reside on his claim from his first settlement until about the time of the dissolution of the Holman partnership, when he went to San Francisco to meet his family. During his absence, February 26, 1852, a military reservation was declared, by order of the President, including his residence and improvements, and the greater part of his claim, the description of the reservation being as follows: "Commencing at the southern extremity of Cape Disappointment, thence due north one and one-half miles, thence west to the Pacific Ocean, all the land inclusive."

February 14, 1853, an act was passed limiting reservations for forts in Oregon to 640 acres; and some time in that year White returned to his claim. February 10, 1855, an act was passed providing that his claim should suffer no prejudice by reason of his absence, but should be confirmed to him and his assignees, if in other respects within the provisions of the donation-law, "but not to interfere with any reservation that may be needed by the United States for light-house or other public uses." It does not appear, however, that Dr. White has ever perfected title to any part of his claim, probably owing to the fact that there was no material reduction of the reservation.

A few months after the reservation was made known, the present claimant removed therefrom and settled with his large family upon a tract of public land outside of the reservation, where he struggled to maintain himself for about four years, most of his capital having been sunk in Pacific City, the business of which was broken up by the reservation. Most of the smaller buildings were removed by the owners, but the hotel was so large and of such materials that it could not be removed without great loss. It was left in good condition, and is said to have been occasionally occupied by soldiers, who were supposed to have had something to do with its destruction. It was burned down in the winter of 1865.

The donation-act contained the following provision: "That if it shall be deemed necessary in the judgment of the President to include in any such reservation the improvements of any settler made previous to the passage of this act, it shall in such case be the duty of the Secretary of War to cause the value of such improvements to be ascertained, and the amount so ascertained shall be paid to the party entitled thereto out of any money not otherwise appropriated." And the act of February 14, 1853, limiting the extent of "reservations heretofore as well as hereafter made" in Oregon, contained the same provision, changed so as to read, "The improvements of any settler made previous to such reservation." It is in evidence that the hotel in question was on the ground and in course of erection when the donation-act was passed, and was occupied as a hotel and store when the reservation was declared.

As to the question whether the present claimant was a settler within the meaning of the act, it may be instructive to quote further from the above-cited opinion in the case of Lamb *vs.* Davenport. Speaking of the donation-act Mr. Justice Miller says, "It is sufficient here to say that several years before that act was passed, and before any act of Congress existed by which title to the land could be acquired, settlement on and cultivation of a large tract of land, which includes the lots in controversy, had been made, and a town laid off into lots, and lots sold, and that these are a part of

the present city of Portland. Of course no legal title vested in any one by these proceedings, for that remained in the United States; all of which was well known and undisputed. But it was equally well known that these possessory rights and improvements placed on the soil were, by the policy of the government, generally protected, so far at least as to give priority of the right to purchase whenever the land was offered for sale, and where no special reason existed to the contrary. And though these rights or claims rested on no statute, or any positive promise, the general recognition of them in the end by the government, and its disposition to protect the meritorious actual settlers, who were the pioneers of emigration in the new Territories, gave a decided and well-understood value to these claims. They were the subject of bargain and sale, and as among the parties to such contracts they were valid."

In the present case the claimant's equity was perfect, if White had succeeded in obtaining title under the donation-act, and he appears to have been an actual resident on the land. It is respectfully submitted that if his statements of fact are true, the present claimant comes within the letter and the spirit of the acts above cited, and is entitled to compensation for his improvements. But those statements rest upon *ex parte* affidavits, and the claim is nearly a quarter of a century old.

On the other hand, it must be admitted that there has been an apparent neglect of duty on the part of the officers of the government. The acts above cited say: It shall in such case be the duty of the Secretary of War to cause the value of such improvements to be ascertained. If the officers recommending the reservation, or laying it off, or commanding the post, had informed the Secretary of War that the reservation included the improvements of any settler, and if the Secretary had done his imperative duty under the law to cause the value of such improvements to be ascertained, there would now be official evidence taken on the spot, at the time, from the best sources of information as to the most important fact in the case. The statement of value is supported by affidavits of claimant and his brother, of two men who came out from Rochester with the materials, and of two other men who have seen the building. It is respectfully suggested that the Adjutant-General be directed to cause inquiry to be made from officers of the Army likely to be acquainted with the facts, in order to elicit further information as to the value of the building at the time the reservation was declared, and as to any other matters of fact involved in the case.

In excuse of the delay in presenting the claim to the War Department, claimant states that he has made repeated efforts to get compensation from the government. Soon after the reservation was declared, he forwarded a statement of the cost of his improvement to the General Land Office, and received a reply, which has been accidentally destroyed, to the effect that Congress had just passed an act limiting the extent of reservations in Oregon, and that the improvements of Pacific City would probably be left out of the reservation. He also requested his Delegate in Congress to look after the matter. In the winter of 1856, J. Patton Anderson, Delegate from Washington Territory, answered him by letter, addressed to Pacific City, that he would try to get him reimbursed in some way for his hotel, if not that session, the next. There seems to have been some uncertainty and delay about fixing the reservation. April 22, 1852, instructions on the subject were transmitted by the General Land Office to the surveyor-general of Oregon, but the surveyor-general failed to designate the reservation on the township-plat, approved by him March 7, 1859. January 15, 1863, the surveyor-general at Olympia was instructed to lay down the reservation upon the original plat in his office, and reserve the same from sale or entry. An authenticated diagram of the reservation was transmitted to the register and receiver at Vancouver, and by him furnished to claimant in the spring of 1863.

September 15, 1864, the Chief of Engineers wrote to the Commissioner of the General Land Office informing him that defensive works for the protection of the entrance to the Columbia River had been established and nearly completed on both sides of the entrance, and requesting that the two reservations of Point Adams and Cape Disappointment should be retained and enforced. It is stated that the military authorities have been in continuous possession ever since the commencement of the fortifications, soon after the beginning of the war. After the burning of the hotel, in the winter of 1865, claimant employed one Michael Herr to look after his claim, but Herr died on his way to Washington. January 5, 1874, claimant being then a citizen of Oregon, applied to Congress, through Mr. Nesmith, for compensation to the amount of $28,000. His petition was referred to the Committee of Claims of the House of Representatives, who took no action upon it, some of the members being of opinion that the claim ought to have been presented to the Secretary of War. Accordingly, January 22, 1876, Mr. Kelly, Senator from Oregon, brought the matter to the attention of the War Department. In pursuance of a suggestion from the office of the Chief of Engineers, a reference was made to the General Land Office for a plat of the reservation showing the position of Holman's land, and for an expression of opinion as to the construction of the statutes upon which the claim depends. A reply was received from the General Land Office to the effect that they had no information as to Holman's land, but that the reservation covered a large part of White's original claim, including his residence and improvements;

and that as to the construction of the laws, it was not deemed proper for that office to express any opinion as to the rights of claimants for compensation for improvements included in a military reservation, inasmuch as that was a matter belonging to the jurisdiction of the Secretary of War. March 18, 1876, Mr. Kelly filed a printed argument from claimant's solicitor, contending that claimant was a settler within the meaning of the statute providing compensation for improvements; and that if not himself such settler he was the assignee of such settler and entitled to the benefit of the act This argument, as well as the communication from the General Land Office, having been referred to the Chief of Engineers, that office reported as follows: "As a judgment as to the merits of this case could only be had after a judicial decision as to the effect of the general laws of September 27, 1850, (9 Stat., p. 496,) and February 14, 1853, (10 Stat., p. 158,) and as there has been no such decision under the general acts just mentioned, as far as known to this office, it is respectfully suggested that this claim be referred to the Court of Claims under the provisions of the act of Congress of June 25, 1868, (15 Stat., p. 76,) which authorizes any head of department to transmit any claim to the Court of Claims when the amount in controversy is more than $3,000, or when a decision shall affect a class, or furnish a precedent for future action of his department. There is no appropriation of which the Engineer Department has knowledge, from which any amount that may be due the claimant in this case can be paid." With reference to these suggestions, it may be remarked that the Department of Justice has recently determined that it has no discretion in the matter of the statute of limitations, but is always bound to plead it, even though the head of another department transmitting a claim to the court should be willing to waive the advantage of the statute, if indeed the court is not bound to take notice of it of its own motion whenever the plea would lie for the protection of the government. It would be useless, therefore, to send to the court a claim twenty-four years old.

As to the matter of appropriation, the law directs payment to made out of any money in the Treasury not otherwise appropriated. This may be regarded as amounting to a continuous contingent appropriation, available whenever claims of this character can properly be allowed. The law directing the Secretary of War to cause the value of improvements to be ascertained would, however, seem to contemplate an appraisal of property actually in existence, and made at the time of its appropriation. It may, therefore, be questioned whether after a long lapse of time and the abandonment and destruction of the property, this duty can still be performed, or whether the authority is not lost by non-user. Upon this point and others hereinbefore indicated, the case is regarded as involved in too much doubt to admit of a satisfactory disposition by executive action. It is believed, therefore, that the matter could be better determined by Congress, or, with the special permission of Congress, by the Court of Claims.

As to the facts in the case, owing, perhaps, to the failure of the Secretary of War, in 1852, to cause the value of the improvements to be ascertained as the law directs, the best evidence does not seem to be now attainable; but it is desirable that such official testimony as can now be procured should not be allowed to be lost. It is therefore recommended as a preliminary step that the Adjutant-General be directed to cause inquiries to be made of such officers of the Army as are likely to have personal knowledge of the position and value of the improvements, and any other matter of fact relating to the claim. And it is further recommended that the papers be referred to the department commander, or otherwise, as the Adjutant-General may judge best, with instructions to cause an investigation of the claim to be made, with due notice to the claimant's solicitor.

HENRY GOODFELLOW,
Judge-Advocate.

Approved.

J. D. CAMERON,
Secretary of War.

WAR DEPARTMENT,
June 20, 1876.

On the 26th October, 1876, by direction of the Secretary of War, the following communication was addressed to the commanding general, Department of the Columbia, through the headquarters of the Military Division of the Pacific:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, October 26, 1876.

SIR: I have the honor to transmit herewith certain papers relative to the claim of J. D. Holman for compensation for value of improvements upon land included in the United States military reservation at Fort Canby, Washington Territory, and to invite your attention to the report on the subject of Major Henry Goodfellow, Judge-Advocate, approved by the Secretary of War.

It is requested that you cause an investigation to be made as indicated by Ma Goodfellow, obtaining as far as possible the statements of officers of the Army hav personal cognizance of the facts in the case, and forward the report, with return accompanying papers, to this office.

Very respectfully, your obedient servant,

L. H. PELOUZE,
Assistant Adjutant-General

The COMMANDING GENERAL, DEPARTMENT OF THE COLUMBIA,
Portland, Oregon.
Through Headquarters Military Division of the Pacific.

On the 30th January, 1877, General O. O. Howard, commanding t Department of the Columbia, made the following report to the W Department:

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Portland, Oreg., January 30, 1877

Respectfully returned to the assistant adjutant-general Military Division of t Pacific.

In accordance with instructions War Department Adjutant-General's Office, dat Washington, D. C., October 26, 1876, "to cause an investigation" with reference the claim of J. D. Holman, esq., of this city, and, "report to be made." I have t honor to state that I have had as thorough an investigation made as the circumstan of the case will admit, through my aid-de-camp, Lieut. M. C. Wilkinson, whose rep with the accompanying papers is inclosed, marked "A."

STATEMENT OF FACTS.

The claim is based upon the provisions of the fourteenth section of the act of C gress of the 27th of September, 1850, known as the Oregon donation-law, and the ni section of the act amendatory thereof, approved 14th of February, 1853.

On the 27th of September, 1850, the date of the said donation-law, Dr. Elijah Wh who was the owner and occupant of a land-claim of 640 acres on Cape Disappointme had laid out a town thereon called Pacific City, and on the 20th of April previou sold and conveyed to the claimant, James D. Holman, and his brother, W. C. Holm a large number of lots in said city, among which were lots 5 and 6 in block 44; a the Holmans had purchased in San Francisco a large hotel-building at a cost of teen (16) thousand dollars in gold coin, most of the material being brought out fr Rochester, N. Y., to San Francisco, ready framed, and by the Holmans transported Pacific City, at a cost of three (3) thousand dollars; and then, on the 27th of Septe ber, 1850, had said building in course of erection upon the said lots 5 and 6 in block

October 13, 1851, W. C. Holman conveyed all his right and title in the said lots a improvements to James D. Holman, the claimant.

On the 26th of February, 1852, in pursuance of the said 14th section of said do tion-law, the President declared a reservation for military purposes at what is n Fort Canby, Washington Territory. At this time the hotel-building was completed a further cost of $9,000, well furnished, and occupied by the claimant as a hotel a store.

On the 20th of April the Commissioner of the General Land Office wrote to the s veyor-general of Oregon, commenting on the President's order declaring the reser tion.

Mail facilities at that time being limited and irregular, information of the reser tion did not, likely, reach the claimant before June or July.

On the 18th of November, 1852, the claimant and others, as appears by a copy c letter from the Land Office, filed, with supplemental arguments of the claimant's so itor, addressed to the Commissioner of the General Land Office, a petition reciting t the petitioner had seen a letter from J. M. Conrad, Secretary of War, of date Septe ber 14, 1852, addressed to James D. Holman, esq., Pacific City, stating "that a val tion of improvements owned by the claimant could not be made until a legal sur shall have determined that they are within the limit of the reservation, and that valuation will have to be deferred until the surveys of the General Land Office sl have reached that point."

From this it is assumed that early after information of the reservation and bef the 14th of September, 1852, the Secretary of War received the application of the clai ant for the ascertainment of the value of the improvements, and deferred action the reason before set forth; and that the claimant applied to the surveyor-general a to the Commissioner of the General Land Office to cause the necessary surveys to made.

It is proper here to say that the evidence of these important facts was not before t judge-advocate.

The existence of claimant's application and the reply referred to the Secretary of War may doubtless be verified on reference to the War Department records of that date. The original is not obtainable; it is said to have been destroyed by fire.

The limits of the reservation, as communicated by the Commissioner of the General Land Office to the surveyor-general, covered Pacific City and embraced the improvements of the claimant. The effect of the receipt of the news of the reservation was the driving away of the inhabitants, breaking up the business, and rendering the improvements of the claimant wholly useless; so that, with a large family on his hands and no means of support, a few months after he removed to a tract of the public lands outside the reservation, leaving the buildings in good condition, but which, after exposure some ten or eleven years and much dilapidated, in the winter of 1865 were burned down, probably accidentally.

On the 14th day of February, 1853, an act was passed limiting the area of the reservation to 640 acres, and extending compensation for improvements made any time prior to the date of the reservation, instead of the 27th of September, 1850.

On the 14th of February, 1855, an act was passed confirming to White and his assignees his donation-claim, on making specified proof, which he had done, and his certificate awarded; not, however, to affect the reservation.

In 1863, the boundaries of the reservation were established by actual survey and placed upon the township plats.

In 1864, the claimant employed a special agent and started him to Washington with the necessary papers to prosecute his claim, but he died on the way and his papers were lost.

Since that time, when circumstances would permit, he has sought through his Representatives in Congress to have his claim allowed. No military post proper was constructed on the reservation until 1864, consequently no official information could be reasonably expected respecting the value of the improvements at the date of the reservation, nor for many years after, when they were in a state of dilapidation. The official and all other evidence as well as personal inspection of the remains of the building concur in identifying the position of the building as being clearly within the reservation, as prescribed by the order of the President as well as the same was established under the act authorizing a reduction.

The solicitor of the claimant presents a supplemental argument, accompanied by the deposition of William Grooms and John Green and all the original witnesses obtainable; Captain Lawson, of the Coast Survey, and Hon. M. P. Deady, judge of the United States district court; also, copies of the notification and first affidavit of Elijah White, and certificate of the register of the land-office at Vancouver, Wash., that he had made his final proof, and his patent-certificate awarded to be delivered. These are properly marked and attached. (See Lieutenant Wilkinson's report.)

These depositions were taken in the presence of Lieutenant Wilkinson, he witnessing the fairness of the examination.

The facts with regard to the value of the property, that is, the improvements, seem to me plainly to place the amount somewhere between twenty and thirty thousand dollars. This appertains to the time when the Holman family left it. It was years after dilapidated, and, according to Lieutenant Howell, Fourth Artillery, of little value, though the original he declares must have been large.

RECAPITULATION IN BRIEF.

1. On the 26th of February, 1852, the President declared a military reservation at Fort Canby, Washington Territory.

2. At the date of the reservation, James D. Holman was the owner and occupant of improvements embraced within the limits of the reservation, made at a cost of $28,000, gold coin.

3. That shortly after the news of the reservation reached the claimant, he gave notice to the Secretary of War, Commissioner of the General Land Office, and surveyor-general of Oregon of the existence of his improvements within the reservation, and demanded of the Secretary of War the ascertainment of their value, and demanded of the Commissioner of the General Land Office and the surveyor-general a legal survey of the reservation.

4. That the Secretary of War, at his own instance, deferred the ascertainment of value until an extension of the surveys.

5. That no action was taken toward defining the limits of the reservation until 1863.

6. That no action has ever been taken by the Secretary of War toward ascertaining the value of the improvements until in this proceeding.

7. That a few months after the news of the reservation reached Pacific City the claimant removed from the building, leaving it in good condition.

8. That in 1865, in a greatly dilapidated condition, the buildings were destroyed by fire.

9. That claimant was forced by necessity to remove from the premises.

10. That claimant, both before and since 1864, has made repeated efforts, in various ways, to obtain compensation for his improvements.

The conclusions of law by Mr. Holman's solicitor, in his supplemental argument therein, appear to me to be correct.

I therefore recommend that the claim be allowed, and that the minimum sum named by the Hon. Judge Deady in his deposition be paid the claimant out of the funds properly applicable to the claim.

The valuation of witnesses is here in gold coin.

My recommendation is based rather upon my judgment of the *real* value of the improvements as they existed at the time the reservation was declared, (February 26, 1852,) rather than upon the original cost of the same, which was, doubtless, considerably more, according to the testimony.

Considering the loss of interest occasioned by the long delay, it seems to me to be reasonable for the government to pay at least the $20,000 in coin, or its equivalent in currency, this being the minimum named by any person conversant with the value of the property at the time the family left it to the custody of the government.

O. O. HOWARD,
Brigadier-General Commanding.

This report of General Howard was again, by the Secretary of War, referred to the Judge-Advocate, who, on March 31st last, transmitted to the Secretary of War the following report and opinion:

WAR DEPARTMENT, *March* 31, 1877.

In the matter of the claim of James D. Holman to compensation for improvements included in the military reservation at Fort Canby, Washington Territory.

To the honorable the SECRETARY OF WAR:

This is a claim for $28,000 under the following provisions of the Oregon donation-act, approved September 27, 1850:

"That if it shall be deemed necessary, in the judgment of the President, to include in any such reservation the improvements of any settler made previous to the passage of this act, it shall in such case be the duty of the Secretary of War to cause the value of such improvements to be ascertained, and the amount so ascertained shall be paid to the party entitled thereto out of any money not otherwise appropriated." By act of February 14, 1853, this provision was extended to "the improvements of any settler made previous to such reservation," referring to "all reservations heretofore as well as hereafter made" in pursuance of the former act, and limited in extent by the latter act.

The facts of this case are fully set forth in my report approved by the Secretary of War June 20, 1876. It was found that claimant's improvements were included in the reservation at the mouth of the Columbia River, declared by the President February 26, 1852, but that the Secretary of War had never caused the value of such improvements to be ascertained or paid to the party entitled thereto. A doubt was suggested whether the Secretary could still perform this duty after so long a lapse of time, and the abandonment and destruction of the property; and it was thought best that the claim should be disposed of by Congress, or, with the permission of Congress, by the Court of Claims. It was recommended, however, as a preliminary step, that an official investigation should be made in order to secure such evidence as might still be attainable. This investigation has now been made by Brigadier-General Howard, commanding the Department of the Columbia, who not only reports the facts found, but recommends that the claim be allowed, and $20,000 in coin be paid the claimant out of the funds properly applicable to the claim.

It appears that claimant's solicitor filed a supplemental argument with General Howard, to the effect that although the law seems to contemplate an appraisal of property actually in existence and made at the time of its appropriation, yet this is not material, the title to the property vesting in the United States by the President's order, and the time of valuation being a question of convenience. Claimant's solicitor also invites attention to a letter from the Secretary of War, dated September 14, 1852, informing claimant that the matter would have to be deferred until the surveys of the General Land Office should have reached that point; and a letter of November 18, 1852, from the claimant and others to the Commissioner of the General Land Office, requesting the extension of surveys to the point in question. Attention is further called to the fact that the reservation does not seem to have been finally settled and enforced until 1864.

The most important witness at the investigation was the Hon. Matthew P. Deady, United States judge for the district of Oregon since 1859. His testimony is substantially as follows:

I arrived in Oregon in 1849. Have known claimant since January, 1850. He is an

uncle of my wife's. In the winter of 1850-'51 he sold out his mercantile business in Oregon City, moved to Pacific City, and erected a large and well-furnished hotel. I visited him there the following spring. It was a large frame building, which I understood to have been prepared in the East, bought in San Francisco, and shipped to Pacific City. All kinds of skilled labor and prepared building-material commanded a very high price there and then. I think it is safe to say that it cost between $20,000 and $30,000. The town was expected to supplant Astoria, the south channel at the mouth of the Columbia River not being known or used at the time of the location of Pacific City. I was a member of the Oregon legislature in 1850-'51, and remember a large meeting in the house of representatives to hear addresses from Dr. White and Dr. Morse, the former being the proprietor of the donation-claim upon which the town was projected. Claimant was comparatively a rich man when he went into the speculation, and it made him a comparatively poor one. I suppose the reservation of the property for military purposes contributed materially to this result, while I think it is equally true that the discovery and use of the south channel contributed to the same end by measurably dividing the shipping from that side of the river.

Judge Deady further testified to the credibility of William Grooms, John Green, Gen. A. J. Lovejoy, Judge Skinner, and J. D. Holman, whose affidavits were already on file in the War Department.

Capt. James S. Lawson, assistant in the United States Coast Survey since 1848, testified that in the course of duty he spent the summer of 1851 at Pacific City, and that claimant then kept a hotel and store in a large and expensive building which witness was informed at the time had cost $27,000, but it was not completely finished.

Lieutenant Wilkinson, who conducted the investigation for General Howard, reports that he addressed a letter to each officer in command at Fort Canby from April 5, 1864, date of occupation, to 1870. The most pertinent answer received appears to have been from Capt. John J. Rodgers, Second Artillery. He states that in October or November, 1865, soon after his arrival, he visited the site of the abandoned town of Pacific City, on Baker's Bay, and saw the remains of the hotel; it was in the last stages of dilapidation, and was burned soon after. It may have originally cost the amount claimed. Farther north there were the ruins of a saw-mill, and still farther north a ruined house, said to have been Mr. Holman's. Captain Rodgers adds: The site was unfavorable in every way for the location of a sea-port, and, in consequence of the preference of the opposite side of the river at Astoria with its great natural advantages of water, anchorage, and protection from the prevalent winter-storms, the hotel at Pacific City was out of the way of the trade, travel, and people; it had no custom, and the owner abandoned it from necessity, to seek subsistence and support for his family. I never heard that the location of the reservation had anything to do with the abandonment of this hotel.

General Howard sums up his own report as follows:

* * * * * * *

I. On the 26th February, 1852, the President declared a military reservation at Fort Canby, Washington Territory.

II. At the date of the reservation James D. Holman was the owner and occupant of improvements embraced within the limits of the reservation, made at a cost of $28,000, gold coin.

III. That shortly after the news of the reservation reached the claimant he gave notice to the Secretary of War, Commissioner of the General Land Office, and surveyor-general of Oregon of the existence of his improvements within the reservation, and demanded of the Secretary of War the ascertainment of their value, and demanded of the Commissioner of the General Land Office and the surveyor-general a legal survey of the reservation.

IV. That the Secretary of War at his own instance deferred the ascertainment of value until an extension of the surveys.

V. That no action was taken toward defining the limits of the reservation until 1863.

VI. That no action has ever been taken by the Secretary of War toward ascertaining the value of the improvements until in this proceeding.

VII. That a few months after news of the reservation reached Pacific City the claimant removed from the building, leaving it in good condition.

VIII. That in 1865, in a greatly dilapidated condition, the buildings were destroyed by fire.

IX. That claimant was forced by necessity to remove from the premises.

X. That claimant, both before and since 1864, has made repeated efforts in various ways to obtain compensation for his improvements.

The conclusions of law by Mr. Holman's solicitor, in his supplemental argument therein, appear to me to be correct.

I therefore recommend that the claim be allowed, and that the minimum sum named by the Hon. Judge Deady in his deposition be paid the claimant out of the funds properly applicable to the claim.

The valuation of witnesses is, here, in gold coin.

My recommendation is based upon my judgment of the *real* value of the improve-

ments as they existed at the time the reservation was declared, (February 26, 1852,) rather than upon the original cost of the same, which was doubtless considerably more, according to the testimony.

Considering the loss of interest occasioned by the long delay, it seems to me to be reasonable for the Government to pay at least the $20,000 in coin, or its equivalent in currency, this being the minimum named by any person conversant with the value of the property at the time the family left it to the custody of the government.

After General Howard made this report, an answer to Lieutenant Wilkinson's circular-letter of inquiry came in from Capt. William H. Jordan, Ninth Infantry, to the same effect as the answer of Captain Rodgers, the substance of which is given above. Captain Jordan arrived at Cape Disappointment in February, 1865, to select a site for the buildings of the projected post. He found the hotel in a dilapidated condition, and worthless except for lumber. It had the appearance of having been abandoned for years. "It is a well-known fact," says Captain Jordan, "that Mr. Holman and others attempted to establish a town thereat in 1852, but the discovery of the south channel of the mouth of the Columbia River (and a better one than the north channel) defeated the project. The site of the projected town (called Pacific City) is situated on the north side of Baker's Bay, opposite the left battery on the cape, and about one mile or a mile and a half therefrom. Valuable information in the case could be obtained from Maj. George H. Elliott, Corps of Engineers, Washington."

This answer from Captain Jordan was referred to claimant's solicitor, who replied: "The claim is not for damage to town or business of Holman, but by the acts of Congress is for the actual value of the buildings on February 26, 1852, without reference to rents, issues, or profits, or the merits or demerits of the town-site. The discovery may have retarded the growth of the town, but it was the reservation that swept it out of existence."

Upon this General Howard remarks: "The answer of Mr. Chapman to Captain Jordan's indorsement appears to me to be correct."

A reference has also been made to Major Elliott, who reports that he constructed the fortifications at the mouth of the Columbia in 1863-'64, and remembers the ruins of Pacific City, and especially the hotel, situated in the woods near Baker's Bay, a mile or more from the point of Cape Disappointment. The whole country near the cape was covered with dense woods and undergrowth, and it would have been very difficult and expensive to have determined the limits of the reservation. Major Elliott has no knowledge as to the merits of Mr. Holman's claim.

All of which is respectfully submitted to the Secretary of War.

HENRY GOODFELLOW.
Judge-Advocate.

MARCH 31, 1877.

On this report the Hon. G. W. McCrary, Secretary of War, made, on April 3, 1877, the following indorsement:

WAR DEPARTMENT,
April 3, 1877.

In my opinion the Oregon donation-act of 1850 contemplated an appraisement of the value of improvements while the same were in existence; and I am therefore unwilling at this late day, and so long after the destruction of the property, to undertake to ascertain its value and order payment thereof. The claim for some amount is undoubtedly just, and it does not appear that the long delay in its prosecution has been caused by the fault of the claimant, and it will therefore be referred to Congress, with a recommendation that action be had looking to its early settlement either by a direct appropriation for its payment or a reference to the Court of Claims for adjudication upon its merits and without regard to the defense of the statute of limitations.

GEO. W. McCRARY,
Secretary of War.

The fourteenth section of the act of Congress of September 27, 1850, reads as follows:

SEC. 14. *And be it further enacted*, That no mineral lands, nor lands reserved for salines, shall be liable to any claim under and by virtue of the provisions of this act; and that such portions of the public lands as may be designated under the authority of the President of the United States, for forts, magazines, arsenals, dock-yards, and other needful public uses, shall be reserved and excepted from the operation of this act: *Provided*, That if it shall be deemed necessary, in the judgment of the President, to include in any such reservation the improvements of any settler made previous to the passage of this act, it shall in such case be the duty of the Secretary of War to cause the value of such improvements to be ascertained, and the amount so ascertained shall be paid to the party entitled thereto, out of any money not otherwise appropriated.

The ninth section of the act of February 14, 1853, amendatory of the act of September 27, 1850, is in these words:

SEC. 9. *And be it further enacted*, That all reservations heretofore as well as hereafter made in pursuance of the fourteenth section of the act to which this is an amendment, shall, for magazines, arsenals, dock-yards, and other needful public uses, except for forts, be limited to an amount not exceeding twenty acres for each and every of said objects at any one point or place, and for forts to an amount not exceeding six hundred and forty acres at any one point or place: *Provided*, That if it shall be deemed necessary, in the judgment of the President, to include in any such reservation the improvement of any settler made previous to such reservation, it shall in such case be the duty of the Secretary of War to cause the value of such improvements to be ascertained; and the amount so ascertained shall be paid to the party entitled thereto, out of any money in the Treasury not otherwise appropriated.

After the very thorough examination that has finally been made of this case by the War Department, and the reports thereon, little else need be said.

Your committee concurs in the opinions expressed by the Judge-Advocate and Secretary of War, sustained as they fully are by the opinion of Justice Miller, of the United States Supreme Court, in the case of Lamb *vs.* Davenport, that the petitioner, James B. Holman, was a settler within the meaning of the acts just quoted. It will be observed that, although the Secretary of War concedes the equity and justice of the claim for such reasonable amount as the evidence may show the improvements to have been worth, the sole ground upon which he declines to make payment under the laws referred to is that, in his opinion, the Oregon donation-act of 1850 contemplated an appraisement of the value of improvements *while the same were in existence.*

The committee is unable to agree in this construction of the act. The law clearly makes it the duty of the Secretary of War, whenever the improvements of any settler are included in any such reservation, where such improvements have been made prior to the passage of the act, to cause the value of such improvements to be ascertained; and, furthermore, that the amount so ascertained shall be paid to the party entitled thereto *out of any money in the Treasury not otherwise appropriated.*

It is quite immaterial, therefore, whether the improvements were in actual existence up to the very date of the appraisement under the direction of the Secretary of War. The rights of the petitioner attach from the date of the executive order including his improvements and settlement within the military reservation of the United States.

It is said (and this is the fact, we believe) that some time in 1865 the buildings were destroyed by fire. Whether it was the work of an incendiary, or the result of carelessness, does not clearly appear. However this may be, or by whatsoever means the destruction may have been accomplished, it matters not; it affords no reason for withholding from Holman compensation for their value. When the reservation was made, the title to the land and the improvements, previously in Holman, became vested in the United States, in a new quality, and subject to a different jurisdiction. Thenceforward, they were subject to military jurisdiction and control—as much so as they are to-day—with armies and fortifications planted upon the soil. From that date, the right of Mr. Holman to remain on the premises, or to exercise any jurisdiction or control over them, ceased. It then became his duty to vacate the premises, as he did; and it was no less the privilege, if not the duty, of the military to preserve them to the best advantage of the United States, and if they were uncared for by the party that had lawfully assumed title and jurisdiction over them, and from that or any other cause were consumed, the petitioner, who had expended his money on their construction, is in no manner

responsible, nor any the less entitled to compensation for the value when divested of the ownership.

It is unnecessary, however, to controvert this construction of the act given by the Secretary of War in order to determine the duty of Congress in the premises. It is conceded by the Secretary of War the claim is just and should be paid. The only question in controversy is as to the amount.

But, conceding the construction of the Secretary of War to be the true one, it is clear from the evidence in this case that the War Department alone is to blame for the failure to have an appraisement of the improvements made before the property was destroyed. The reservation was declared in February, 1852, and the property was not destroyed until 1865, thirteen years afterward; and during all these years, as shown from the record of the War Department, the petitioner was insisting on an appraisement of the value of the premises and payment of the amount due him. The government would surely not take advantage of its own wrong by refusing payment now.

The petitioner claims $28,000. The testimony upon this point, as to the value of the improvements at the time of the executive order declaring this reservation, is somewhat conflicting. The great weight of testimony shows the value at the time to be from $20,000 to $30,000. The lowest estimate made by any witness, Judge Deady, of the United States district court of Oregon, is $20,000, gold coin, as to the original cost of the building. His testimony in brief will be found in the opinion of the judge-advocate, dated March 31, 1877, transmitted to the Secretary of War, pages 67 to 70 of this (written) report.

The testimony showed the building erected by petitioner to have been three stories high and extending back 120 feet.

William Grooms testifies upon oath that J. D. Holman erected a hotel in Pacific City, on Baker's Bay, at the mouth of the Columbia River, Washington Territory, in 1850 or 1851, at a great cost; that he came with the building materials for said hotel from Rochester, N. Y.; he was employed to come with said materials; freights were then very high; laborers were worth then ten dollars and board per day, and carpenters twelve dollars per day each; that said hotel was worth at that time $28,000, complete, in United States gold coin; that he has no interest in the claim.

John Meldrum, an old and respected citizen of Oregon, testifies that J. D. Holman erected a hotel in Pacific City, on Baker's Bay, at the mouth of the Columbia River, Washington Territory, in 1850, at a great cost; that labor and freights were very high at that time; that said hotel was worth, when complete, about $28,000.

Benjamin Bigelow, of Yuba County, California, testifies that J. D. Holman erected a hotel at Pacific City, costing, when completed, about $28,000; that he came out with the material from Rochester, N. Y. being employed to do so; that freights were very high then; laborers were worth $10 and carpenters $12 per day each.

Alonzo A. Skinner, formerly judge of the supreme court of the State of Oregon, testified that at that time freights were very high; common laborers received $10 and carpenters $12 per day each; that owing to the scarcity of saw-mills lumber was worth from $100 to $150 per thousand, and everything else was proportionately high, owing to the ruling prices in California incident to the discovery of gold. * * *

"This reservation left said Holman houseless, with a large family to support. This hotel was erected by Holman, costing about $28,000. He was at the time of the erection of said hotel living at Pacific City, and was well acquainted with Mr. Holman's business."

General A. L. Lovejoy testifies to his knowledge of this property and of the improvements made by Mr. Holman, and concludes by saying that said Holman was a loyal and faithful citizen; that he yielded the possession of said property to the United States Government by peaceably and voluntarily removing therefrom, and settled upon a piece of wild and government land, where he struggled hard to maintain a large family of children for the space of about four years, with but little if any capital, as nearly his entire capital was invested in lands and improvements covered by said reservation. "I was one of the parties who purchased grounds of said Elijah White, at or about the time said Holman did; I know that said Holman made large and expensive improvements upon the grounds which he purchased of said White."

Hiram Brown, river-pilot, testifies that Holman erected a large hotel on Baker's Bay, upon what is known or understood to be the United States military reservation; that in consequence of said reservation the trade and commerce of the town of Pacific City was destroyed, and that in consequence of it most of the smaller buildings were removed. The Holman House was too large and of such material as to preclude its removal without almost an entire loss of the original cost of erection.

In view of all the circumstances of this case, your committee is of the opinion that the petitioner is entitled to the sum of twenty-five thousand dollars, and reports the accompanying bill and recommends its passage.

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45TH CONGRESS, 1st Session. } SENATE. { REPORT No. 10.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 14, 1877.—Ordered to be printed.

Mr. MCMILLAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 91.]

The Committee on Claims, to whom was referred the bill (S. 91) for the relief of Gallus Kerchner, respectfully report as follows:

The petition, and papers accompanying the same, of Gallus Kerchner were referred by the Senate to this committee at the first session of the Forty-fourth Congress. The committee, having fully considered the claim of the petitioner at that time, submitted their report thereon in writing, by which the committee recommended that the claim be rejected, and that the Senate by its vote so order, (Forty-fourth Cong., 1st sess., S. R. 433,) which report was adopted and the claim was rejected.

Rule 58 of the standing rules of the Senate provides as follows: "Whenever a claim is presented to the Senate and referred to a committee, and the committee report that the claim ought not be allowed, and the report shall have been agreed to by the Senate, it shall not be in order to move to take the papers from the files for the purpose of referring them at a subsequent session, unless the claimant shall present a memorial for that purpose, stating that new evidence has been discovered since the report, and setting forth the new evidence in the memorial."

The memorial in this case is merely an argument for a rehearing of the case, and contains no statement that any evidence has been discovered since the report of the committee, and no additional evidence whatever is submitted.

The present case is perhaps a good illustration of the beneficial operation of the rule.

Your committee report back the petition mentioned, and ask to be discharged from its further consideration.

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45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 11.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 15, 1877.—Ordered to be printed.

Mr. HOAR, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of the legatees of Asbury Dickins, deceased, praying compensation for services rendered by him as Acting Secretary of the Treasury and Acting Secretary of State, respectfully report:

Mr. Dickins, being chief clerk in the Treasury, was, under the statute of May 8, 1792, authorized by the President at various times to perform the duties of Secretary of the Treasury. Afterward, being chief clerk in the Department of State, he was in like manner authorized to perform the duties of Secretary of State. The following table shows the periods for which he performed these duties, respectively:

1. AS ACTING SECRETARY OF THE TREASURY.

	Days
From April 24, 1829, to May 26, 1829, inclusive	33
From June 21, 1831, to August 7, 1831, inclusive	48
From October 18, 1831, to October 26, 1831, inclusive	9
From March 15, 1832, to March 30, 1832, inclusive	16
From October 1, 1832, to October 10, 1832, inclusive	10
From November 8, 1832, to November 17, 1832, inclusive	10
From May 6, 1833, to May 9, 1833, inclusive	4
From May 29, 1833, to May 31, 1833, inclusive	3
Total	133

2. AS ACTING SECRETARY OF STATE.

From August 10, 1833, to August 24, 1833, inclusive	15
From November 11, 1833, to November 15, 1833, inclusive	5
From October 11, 1834, to October 31, 1834, inclusive	21
From May 2, 1835, to June 13, 1835, inclusive	43
From July 6, 1835, to July 13, 1835, inclusive	8
From August 31, 1835, to September 8, 1835, inclusive	9
From September 28, 1835, to October 19, 1835, inclusive	22
From May 19, 1836, to May 23, 1836, inclusive	5
From July 7, 1836, to August 29, 1836, inclusive	54
From September 27, 1836, to November 9, 1836, inclusive	44
Total	226

It does not appear that it ever occurred to Mr. Dickins to present a claim for extra compensation until 1849, or that he ever applied to Congress on the subject until 1854, twenty-five years after the first day and eighteen years after the last day when these services were rendered. He was then led to do so by hearing that allowance had been made to Mr. Fletcher Webster and some other persons in like cases.

Upon these facts, it seems that the claim of the petitioners should be disallowed, upon two distinct and decisive grounds:

First. The delay in presenting the claim. In ordinary cases claims against the United States cannot be enforced by suit. It follows that when a demand has been seasonably presented to the proper accounting officers or to Congress, a delay in payment caused by the laches of government should not operate against a just claim; but, where no such demand has been made, the considerations which justify statutes of limitations of suits between individuals apply with peculiar force to claims against the government. The loss of vouchers, the death or forgetfulness of witnesses, the want of knowledge of explanatory facts and circumstances, which render it just, as a general rule, that no suit shall be maintained on a simple contract which is commenced more than six years after the cause of action accrues, are peculiarly likely to exist in cases against the government, where it is neither the interest nor the duty of anybody to preserve the memory of the transaction in its behalf.

But there is a still stronger reason. It is the duty of every generation to bear its own burdens and to discharge every year the ordinary expenses of government as they occur. Great wars or other calamities sometimes make it necessary to incur extraordinary expenses, and to provide for them by debts payable at a distant day, to the payment of which the faith of the nation is pledged. Posterity cannot justly complain of such burdens, which are the necessary cost of the institutions which are handed down to them. But an individual, who has himself failed to bring forward a claim for a service in the ordinary administration of government, cannot justly require the people, in a future and long distant year, to burden themselves in its discharge.

Second. It seems to us that Mr. Dickens never had a just claim upon the United States, either within the letter or the spirit of the law establishing salaries for the Secretaries of State and of the Treasury. He was a clerk designated by the President, in pursuance of law, to perform the duties of those offices during the temporary absence or illness of the incumbent. But he did not hold the office. It is said in an ingenious argument in his favor that the law did not forbid his holding two offices at the same time; and this is true. But the law did not permit the same office to be held by two men at the same time. The Secretary, when Mr. Dickins performed certain official duties, was living, and in the office, and resumed its duties on his return to Washington, or his recovery from illness, without any new appointment, or new oath. The President could not have constituted Mr. Dickins Secretary of State or Secretary of the Treasury without the advice and consent of the Senate. The power to do so could not have been constitutionally conferred upon him by act of Congress. The Constitution, article 2, section 2, provides that all officers shall be appointed by and with the advice and consent of the Senate, except such as are therein otherwise provided for; the other provisions being that Congress may by law vest the appointment of inferior officers "in the President alone, in the courts of law, or in the heads of departments." The head of a department is clearly not an inferior officer, as is manifest from the appointing power being vested in him, and from the fact that he is spoken of in the Constitution as "the principal officer in the executive department," and bound as such to give his opinion in writing to the President when required. Mr. Dickins, therefore, was never the head of a department. He never held the office of Secretary of State or of the Treasury, but was only a clerk, bound to add, on requirement of the President, to his ordinary labors such duties of the Secretary as required to be immediately performed.

Neither did he come within the spirit of the law establishing salaries for the heads of departments. Those salaries are established not on the principle of giving pay at so much a day for each day's work, but to provide a liberal and honorable maintenance for a high officer of the government. The heads of departments commonly find it necessary to remove their households to Washington, to maintain social intercourse with the public men of the country, and, especially in the case of the Secretary of State, with the representatives of foreign governments. They are required by the Constitution to give their advice in writing to the President on important public exigencies, and by law or usage to make elaborate reports to Congress, and to attend the President for personal consultation whenever the public service demands. The clerk who for a few days, from time to time, performs the routine duties of the Secretary is subjected to no such burden, and is not ordinarily expected to possess the qualifications needed for the permanent discharge of the greater duties of the office.

The liability to be called upon by the President to perform these duties must be regarded as an incident to the office which the petitioners' testator held, an incident which, if it had been in his contemplation when he was originally appointed clerk, would, in our judgment, not have led him to reject it, but, on the contrary, would have been regarded as giving it increased attractiveness and dignity.

It is true that, in a few like cases, it has been held that facts like these create a valid claim against the government; but, for the reasons stated, we think that determination wrong. When it came to the attention of Congress, it was reversed by express legislation forbidding such payment of double salaries in future.

We think, therefore, the claim should not be allowed, and that petitioners should have leave to withdraw.

Mr. MITCHELL submitted the following as the

VIEWS OF THE MINORITY:

The minority of your committee respectfully beg leave to submit the following as their views, and their reasons for dissenting from the conclusions of the majority:

This claim is an old one, and consequently has received the close scrutiny of your committee. The petition of Asbury Dickins was originally presented to the United States Senate February 23, 1854, at the sitting of the first session of the Thirty-third Congress, and the claim, in some form, has been before nearly every Congress since that time.

The high character of the original petitioner, and the persistency with which his legal representatives have urged their claim upon the attention of Congress and the Court of Claims, taken in connection with the fact that the amount claimed is not of that character calculated to create suspicion as to any intentional wrong upon the part of the claimants, have appeared to be additional reasons why it should receive at this time a thorough investigation, to the end that justice may be done, either by the payment of the claim, if found just, or by its rejection in such emphatic terms, if found to be otherwise, as will forever settle the controversy. And it is a source of regret that, after this thorough investigation, your committee are unable to present a unanimous report.

This is a claim for compensation for services performed by Asbury Dickins, as Acting Secretary of the Treasury, at different periods be-

tween the 24th day of April, 1829, and the 31st day of May, 1833, both days inclusive—in all 133 days, (less the time from the 21st day of June to the 7th day of August of the same year, during which last-described period he received compensation as Secretary of the Treasury;) and for services performed by him as Acting Secretary of State at different periods between the 10th of August, 1833, and the 9th of November, 1836, inclusive—in all 226 days. These services as Acting Secretary of the Treasury were rendered in pursuance of eight different appointments to such position by the President of the United States, (Andrew Jackson;) and at the date of each appointment, and during the whole time of such service as Secretary of the Treasury, he was the chief clerk of the Treasury Department, and received the compensation provided by law for such officer. The services for which compensation is claimed as Secretary of State were performed in pursuance of ten different appointments by the same President to that position; and at the time of each of these appointments, and during the whole time of service under them, Mr. Dickins was chief clerk of the State Department, and performed its duties.

There is no material controversy in regard to the facts, and upon these the naked legal question is presented as to the right of claimants to compensation as the legal representatives of Mr. Dickins to an amount equal to the difference, respectively, between the amounts he received as chief clerk and the compensation then fixed by law for the Secretaries of Treasury and State.

As the difference between the two, respectively, is all that is claimed, the question as to the right to receive both does not arise in this case. This difference is $3,385.15.

By the 8th section of the act of Congress of May 8, 1792, entitled "An act making alterations in the Treasury and War Departments," (Statutes at Large, vol. 1, 281,) it is provided as follows:

"SECTION 8. *And be it further enacted*, That in case of the death, absence from the seat of Government, or sickness of the Secretary of State, Secretary of the Treasury, or of the Secretary of the War Department, or of any officer of either of the said departments whose appointment is not in the head thereof, whereby they cannot perform the duties of their respective offices, it shall be lawful for the President of the United States, in case he shall think it necessary, to authorize any person or persons, at his discretion, to perform the duties of the said respective offices until a successor be appointed, or until such absence or inability by sickness shall cease."

It was in pursuance of this section of the statute that these appointments were made.

The petitioner avers that one of the two contingencies of "absence from the seat of government," or "sickness of the Secretary," mentioned in the statute, existed at the time each of these appointments was made by the President, and continued to exist during the time for which compensation is claimed. The fact that the appointments were made by the President is, in the judgment of the minority of your committee, conclusive upon the points, both as to the existence of the contingencies at the time, and as to the necessity of the appointments, by reason of them.

The act referred to makes it "lawful for the President of the United States, in case he shall think it necessary, to authorize *any* person or persons, at his discretion, to perform the duties of the said respective offices." It is true the compensation for such services is not fixed in *terms* by the law providing for the appointment, but can it be presumed

that Congress intended to require such services without reasonable allowance? Or can it be said that the performance of such services, when so required by the President, does not present at least an equitable claim for compensation? It seems to the minority of your committee not. The fact that Mr. Dickins was, at the date of these several appointments, and during the time of service under them, chief clerk, cannot possibly affect the general question as to the right of a person to receive a reasonable and just allowance for such services. The act in question did not limit the President, in his selection, to the chief clerks of the departments, or to any particular class of persons; he is empowered, at his discretion, on the happening of any of the three contingencies specified, namely, death, sickness, or absence from the seat of government, "to authorize *any person or persons* to perform the duties of the said respective offices," &c. Here is an absolute and unconditional warrant given by Congress to the President (within a specified limit of circumstances) to select *any* person, and authorize such person to perform the responsible duties of Secretary of State and Secretary of the Treasury. Suppose President Jackson, instead of appointing the chief clerk of these Departments, had appointed, as he might have lawfully done, some person wholly disconnected, not only from the departments, but from all official position whatsoever; and suppose such person had performed the duties of the position, as did Asbury Dickins, could any serious question be raised as to his right to a reasonable compensation for such services? Certainly not. And if such stranger to official position would be entitled to compensation in the case stated, then it follows, as a necessary sequence, that Mr. Dickins, or his legal representatives, would be entitled to such reasonable allowance, unless there was some provision of law in existence at the time these services were rendered that precluded him from receiving the same, for the reason that he was chief clerk at the time of performing the service as Secretary, or some provision that made the two positions of chief clerk and Secretary incompatible in law.

Were this a claim arising since the passage of the acts of March 3, 1839, and of August 23, 1842, it would not be difficult to determine that the chief clerk of a department performing the duties of Acting Secretary of such department under the appointment of the President would not be entitled to any other compensation than that of his regular salary as chief clerk, as these laws inhibit the allowance of any compensation to a clerk or other officer in a department who performs the duties of any other officer in addition to his own. But we are of the opinion these acts were not intended to be retroactive in their operation—if, indeed, they could have been—as affecting rather the contract than the remedy, and that it would be unjust to attempt to give to them such construction. Recurring, then, to the provisions of law in existence at the time these services were rendered that could by any possibility have any bearing upon the question at issue, the minority of your committee are unable to find any provision that would invalidate Mr. Dickins's claim, or that would place him in any worse position in reference to it, from the fact that he was chief clerk of the department at the time of rendering the service as Secretary, than he would have been had he not been such chief clerk.

The 9th section, it is true, of the act of Congress of 1818, entitled "An act to regulate and fix the compensation of the clerks in the different offices," provides as follows:

"SEC. 9. That the compensation allowed by this act to clerks shall commence from and after the 31st day of March last, and it shall be the

duty of the Secretaries for the Departments of State, Treasury, War, and Navy, of the Commissioners of the Navy, and the Postmaster-General, to report to Congress at the beginning of each year the names of the clerks they have employed respectively in the preceding year, together with the time each clerk was actively employed during the year, and the sums paid to each; and no higher or other allowance shall be made to any clerk in the said departments and offices than is authorized by this act."

It has been claimed that this section prohibits the payment of a claim such as the one under consideration; but it is clear that the meaning of this section is simply this: That no such clerk shall receive any other compensation *as clerk* than that allowed by the act, and it does not touch the question as to the right of any such clerk to a compensation in addition to his regular salary *as clerk* for his discharge of the duties of any *other* office to which he might be lawfully called by the President.

Mr. Dickins, while discharging the duties of the office of Secretary of State, held an office separate from that of chief clerk, and so when he held the position of Secretary of the Treasury. This was the ruling of the Court of Claims, and in the correctness of such ruling the minority of your committee concur. He, in fact, held two offices at the same time, and performed the duties of both. Were they incompatible? We cannot say that they were; there was no law declaring them so, neither was there any law that prohibited Mr. Dickins, directly or inferentially, from performing the duties of both. He did perform the duties of both, as history records, in a most faithful manner, and with an ability for which he was eminent; he has received compensation but for the one. His legal representatives are, in our judgment, entitled to an amount equal to the difference between the amount received as salary for chief clerk and the amount of the salary of Cabinet officers at that time.

It was decided by Judge Story, in the case of the United States *vs.* Morse, (Story's Reports, vol. 3, page 87,) that two offices, not incompatible, may be conferred on one person, and that he will be entitled to the compensation of both.

Chief Justice Taney decided the same thing in the case of the United States *vs.* White *et al.*, in the circuit court of the United States, district of Maryland.

Attorney-General Wirt, in an opinion given in reference to a claim of General Cass for certain services performed by him while governor of Michigan, uses this language:

> His salary is a compensation for his services *as governor*, but the services for which he claims do not belong to his duty as governor of Michigan Territory, and having been employed by the government to perform these services, he has a fair claim for them on the principles of a *quantum meruit*. The facts conceded, I think his right undeniable. (Opinions Attorneys-General, vol. 2, p. 189.)

Attorney-General Legare, in passing upon the validity of a claim of a Mr. Young, then chief clerk of the Treasury Department, for services similar to those performed by Mr. Dickins, and for which compensation is now claimed, says: "In the matter of Mr. Young's claim I am of opinion that the Secretary of the Treasury *ad interim*, appointed by virtue of an *express* law, has a claim upon the government for the usual, or, if there be no usual, for a reasonable compensation for his services in that capacity; but I do not think he can obtain it without an appropriation by Congress for the purpose."

In the case of White, to which we have referred, the defendant had been regularly appointed navy-agent, with a salary fixed by law. While

acting in this capacity he was also appointed to discharge the duties *ad interim* of a purser in the Navy, and performed its duties, and Chief Justice Taney held he was entitled to both compensations, and used this language:

> There is no law which prohibits a person from holding two offices at the same time.

Caleb Cushing, while Attorney-General of the United States, in a very able and elaborate opinion on the diplomatic and consular systems of the United States, uses this language:

> Besides which, an officer may lawfully be, and occasionally is, appointed either a statute officer or other, without any existing provision for his compensation, which, if he be lawfully appointed, creates a valid debt against the government. (See pamphlet opinion of Attorney-General Cushing, page 30.)

On both principle and authority, then, the minority of your committee are of the opinion that this claim is a just one, and should be paid. An additional reason exists in favor of its payment. The Thirty-third Congress referred this claim to the Court of Claims for adjudication, and it was sustained by Judge Blackford, who delivered the opinion of the court. Will Congress repudiate the award of its own referee? We have much to say in reference to the importance, in a moral point of view, of maintaining inviolate the plighted faith of the nation. What are good morals in this respect in reference to a large debt represented by the nation's bonds *ought* to be good morals in reference to an award made against the government by its own referee, even though the amount may be insignificant. But it is said in the majority report that the same policy in reference to claims of this class was in effect declared by the act of April 20, 1818, (3 Stat. at L., 447,) and that it was subsequently clearly declared by the acts of March 3, 1839, and August 23, 1842. Most certainly not, for two reasons: First, because the act of April 20, 1818, is not susceptible of any such construction; had it been, no necessity would have existed for the acts that followed. Both Congress and the Court of Claims have decided that such was not the proper construction or policy of the act of 1818, and the very fact that the acts of 1839 and 1842 were passed, ought to be, without anything else, conclusive on this point. But, in addition to this, Congress has furnished numerous precedents for the action proposed by the minority of your committee. The Congress on March 14, 1826, (4 Stats. at L., 148,) passed an act appropriating $950 to be paid to Thomas H. Gillis, the chief clerk of the Fourth Auditor's office, for his services as *Acting* Auditor from 8th October, 1823, to 23d June, 1824, during which period the Auditor was sick, receiving, however, his full pay as Auditor.

Congress again passed an act on September 30, 1850, (9 Stat. at L., 542, 543,) providing for the payment to Richard Rush of a balance of $259.59, ascertained to be due him by the accounting officers of the Treasury, for his salary as Attorney-General of the United States for the time he acted as such, under an acting appointment, between the years 1825 and 1829, while he was Secretary of the Treasury, and William Wirt was Attorney General, and during which time both received full pay attaching to their commissions, respectively.

And, in addition to these precedents, it is conceded in the majority report that Mr. Dickins's successors, Mr. Young and Mr. Fletcher Webster, have both been allowed compensation for similar services to those rendered by Mr. Dickins, and for which compensation is now claimed by his legatees. And it is a fact that such allowance was in accordance with the views of the then Attorney-General of the United States, expressed in the opinion hereinbefore quoted.

The chairman of the committee, in presenting the majority report, says:

This committee, after the lapse of thirty-eight years since the services were rendered, does not feel itself called upon to say that Mr. Dickins was wrong in considering for so long a time that he had no claim, or that Congress has been wrong in refusing to recognize it after he came to a contrary conclusion.

The minority of your committee cannot, in face of the full history of this claim, concur in this view, nor feel justified in urging this suggestion as a reason why the claim, if just, should not now be paid; upon the contrary, such delay upon the part of Congress, provided the claim is just, as we conceive it to be, is, in our opinion, a strong reason why prompt action should be had now.

Your minority would here present a full statement of the history of this claim, from which it may be judged whether claimants have been guilty of any such *laches* as should now be urged against them.

The claim of Asbury Dickins was first presented in 1849. On the 11th August, 1849, the First Auditor of the Treasury examined and adjusted the account; but there was no appropriation out of which it could be paid.

February 20, 1854, (see Senate Journal, 1st sess. 33d Cong., p. 193,) Mr. Badger presented Mr. Dickins's memorial to the Senate asking the difference between the salaries of chief clerk and Secretary of the State and of the Treasury Departments for the time he was chief clerk of those departments and performed the duties of Secretary under appointments from the President of the United States. This memorial was referred to the Committee on Claims, and on the 23d February, 1854, (see Journal, p. 207,) Mr. Brodhead, the chairman, reported a bill to pay it. (See Senate bill No. 230 and Report No. 124, 1st sess. 33d Cong.; also Cong. Globe, pp. 464 and 596.) This bill passed the Senate March 10, 1854, (see Journal, p. 247,) and went to the House same day, (see Journal H. R., p. 487,) where it was referred to the Committee on Claims March 31, (see Journal H. R., pp. 586, 587,) and favorably reported by Mr. Edgerton, the chairman of that committee, July 15, 1854, (see Journal, p. 1148,) and placed on the private calendar, where it was reached but once during that session, and that was on what was called "objection-day," when, according to the rules of the House, a single objection, without any cause assigned, prevents the passage of a bill. Objection was made, and, therefore, it had to remain on the calendar for the next session.

During the second session of the Thirty-third Congress it was only reached on an objection-day, and was objected to by Mr. Letcher, (see Cong. Globe, p. 203,) and was remaining on the private calendar when Congress adjourned, March 3, 1855. On that day the House passed the following resolution, (see Journal, p. 571:)

Resolved, That all reports which any of the committees have directed to be made to the House shall be delivered to the Clerk, and they are hereby ordered to be printed; and such of them as are of a private character, together with all the bills that shall remain on the private calendar, or on the Speaker's table, at the adjournment of Congress, are hereby referred, with the accompanying papers, to the Court of Claims.

Under the above resolution this claim was sent by the officers of the House of Representatives to the Court of Claims, (see Journal H. R., February 14, 1856, pp. 536–539, 1st sess. 34th Cong.) The next session after the papers were referred to the Court of Claims they made their report, and presented a bill, (see report No. 9, of Court of Claims, 1st sess. 34th Cong.; also, Journal H. R., p. 991, and Cong. Globe, p. 792,) on the 2d April, 1856, allowing Mr. Dickins the salary of both chief clerk

and Secretary of the departments for the time he performed the duties of both offices. This bill, with the report, was referred to the Committee on Claims in each House. In the Senate, on the 2d April, 1856, (see Cong. Globe, 1st sess., 34th Cong., p. 792,) and on the 16th May the committee of the Senate reported back the bill with an amendment, (see Senate bill No. 314, 1st sess., 34th Cong.; also, Cong. Globe, p. 1239.) This amendment allowed the difference between the salaries of chief clerk and Secretary. It came up in the Senate on the 11th July, 1856. A few remarks were made, (see Cong. Globe, p. 1609,) and the bill as amended passed the Senate same day.

On the 14th July, 1856, this bill was sent to the House of Representatives, (see Journal H. R., p. 1196, and Cong. Globe, p. 1626,) and on the 19th it was referred to the Committee of Claims, (see Journal H. R., p. 1243.) Before the Senate bill reached the House of Representatives, (namely, on the 23d May, 1856,) Mr. Taylor, from the Committee of Claims, made an adverse report, (report No. 94, see Journal H. R., p. 1031,) to accompany the bill and report of the Court of Claims, (bill No. 2, C. C.) Nothing further appears to have been done at this session. In the second session no private claims were acted upon.

In the third session, Thirty-fourth Congress, on the 10th January, 1857, (see Journal H. R., p. 206,) the Committee of the Whole had under consideration and reported "H. R. C. C. 2, a bill for the relief of Asbury Dickins, with a recommendation that it do not pass." There was no discussion. Mr. Letcher made the motion, and it was agreed to without a word being said, (see Cong. Globe, p. 285.) Thus it was thrown in the House to be discussed.

On the 17th January, 1857, (see Journal H. R., p. 246,) it came up again. Some amendments were proposed, but none agreed to, and there was considerable discussion, (see Cong. Globe, 3d sess. 34th Cong., pp. 357–363,) but no vote was had.

This case was never again reached during this session, unless on objection-days, and, consequently, no further action was had on it. It, however, was very fully discussed on the 30th January, when the case of Michael Nourse was before the Committee of the Whole, (see Cong Globe, pp. 506–516.)

On the 5th January, 1858, Thirty-fifth Congress, first session, the Court of Claims bill was referred, in the House of Representatives, to the Committee on Claims, (see Journal, p. 135, and Cong. Globe, p. 193.) On the 14th May, 1858, Mr. Marshall, of Illinois, reported, from the Committee of Claims, the bill, without amendment, with a recommendation that it do pass. There was, also, an adverse report from the minority, (see report No. 384; also, Journal, p. 807, and Cong. Globe, p. 2134.) This bill came up but once during the session, the 28th May, objection-day, and was objected to by Mr. Letcher, (see Cong. Globe, p. 2486.) The consequence was, it was not acted upon.

In the House of Representatives, second session, Thirty-fifth Congress, this bill came up but once, objection-day, 4th February, 1859. Mr. Dean objected, (see Cong. Globe, p. 821.) Consequently the bill was not acted upon.

In the Senate, Mr. Iverson reported from the Committee on Claims, on the 28th January, 1859, (see Senate Journal, p. 226, and Cong. Globe, p. 642.)

In the Senate, Thirty-sixth Congress, first session, Mr. Iverson, from the Committee on Claims, on the 6th February, 1860, reported Senate bill No. 120, (see Journal, p. 127, and Cong. Globe, p. 667.) This bill was the same as the bill reported by the Court of Claims, allowing the

double salary. It came up in the Senate on the 6th April, and, on Mr. Iverson's motion, was amended so as to allow only the difference between the salaries of chief clerk and Secretary, and in that form passed the Senate the same day, (see Journal, p. 353, and Cong. Globe, p. 1567.) This bill was received in the House of Representatives 10th April, (see Journal, p. 684, and Cong. Globe, p. 1601,) and referred to the Committee of Claims, 12th April, (see Journal, p. 711–712; also, Cong. Globe, p. 1689.) On the 15th June, 1860, Mr. Maynard, from the Committee of Claims, reported back the bill without amendment, with a recommendation that it be passed. There was, also, at the same time an adverse report from the minority, (see report No. 643; also, Journal H. R., p. 1098, and Cong. Globe, p. 3035.) There was no further action on the claim during the Thirty-sixth Congress. All this transpired *prior* to Mr. Dickins's death.

The war coming on, no further action was had until the Fortieth Congress, when it was revived, and has been pending ever since. A bill was presented to the House of Representatives at the present session, referred to the Committee of Claims, a favorable report made, and on the 14th of the present month the bill passed the House without a division, and is now pending in the Senate, awaiting its action. This bill provides for the payment of $3,976.19. Your minority believe this is not the correct amount. It should be $3,385.15, as hereinbefore stated.

The minority of your committee, therefore, feeling bound by law and precedent, would respectfully suggest the accompanying bill as a substitute for Senate bill No. 171, and recommend its passage:

A BILL for the benefit of the legal representatives of Asbury Dickins, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid to the legal representatives of Asbury Dickins, deceased, out of any money in the Treasury not otherwise appropriated, the sum of three thousand three hundred and eighty-five dollars and fifteen cents, it being the difference between the salaries of the Secretary of the Treasury and the Secretary of State and chief clerk of those departments for the aggregate periods of time that the said Asbury Dickins acted as Secretaries aforesaid under pro tempore appointments by the President of the United States.

J. H. MITCHELL.
S. J. R. McMILLAN.

O

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 12.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 16, 1877.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, having had under consideration the memorial of Mary Jane Pyle, widow of Jesse F. Pyle, late private in Company D, Eleventh Regiment Kansas Volunteers, report:

That Jesse F. Pyle enlisted August 29, 1863, and was mustered out September 13, 1865, by reason of expiration of term of service.

The widow filed an application for pension under the general law June 15, 1874, alleging that Pyle was killed near his home in Jefferson County, Kansas, on the 2d day of January, 1871, by the fall of a tree. Being blind, he was unable to get out of the way of the falling tree. She alleges that Pyle lost his eyesight while in the service of the United States and in the line of his duty. The evidence in support of the claim before the Commissioner of Pensions consists of the affidavit of the widow and a statement from the attorney. The claim was rejected because the soldier's death was not proven to have been caused by his military service.

Since the rejection of the claim, the additional evidence of Elias Gibbs has been filed. Gibbs swears that he was first lieutenant of Company D, Eleventh Kansas Volunteers, and was personally acquainted with Pyle before his enlistment and during his term of service; that the soldier's eyes were sound when he enlisted, but were attacked by disease while a member of Company D, and continued to be diseased until the date of his discharge, at which time he was almost blind. He states further, that his knowledge of Pyle continued until about a year before his death, and up to that time he had not entirely recovered his eyesight.

James W. Shrader, formerly a corporal of Company D, Eleventh Regiment Kansas Volunteers, swears that he belonged to the same company and regiment with Pyle, and was acquainted with him for three years before his enlistment; believed his eyes to have been sound when he enlisted and for a year afterward; that he became so blind while in the service that he, affiant, had frequently to lead him about the camp. Affiant knew Pyle until his death, and swears that he remained nearly blind until the day of his death.

Lot G. Sparks, a private in the same company and regiment, corroborates the testimony of Shrader, and adds that he was acquainted with the circumstances attending Pyle's death, which occurred as set forth in the widow's application.

A statement signed by Jerry Critchfield, W. H. Buckmaster, George Hogeboom, and several other citizens of Jefferson County, sets forth

the fact that they knew Pyle before and after his service in the Army; that they knew his eyes were sound before he entered the service, and that since his discharge until his death he was almost entirely blind.

There is no record of hospital treatment or medical certificate accompanying the memorial. The soldier's discharge states that no objection to his being re-enlisted is known to exist. The soldier made no application for pension on account of disability during his life-time.

The committee regard this claim as too remote to establish any just demand upon the Government, and they ask to be discharged from further consideration of the petition.

O

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 13.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 6, 1877.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 225.]

The Committee on Pensions, to which was referred bill S. 225, report:

On the 3d of March, 1871, an act was passed granting a pension to Nancy T. Ledford, widow of Christopher M. Ledford, alleged to have been a private in Company F, Second North Carolina Mounted Infantry, with the usual allowance for her children under sixteen years of age. She had previously applied for a pension under the general law, October 26, 1866, but the claim does not appear, from the papers on file, to have been finally adjudicated at the bureau when the special act was passed. On the 4th of September, 1877, information had been received by the Commissioner that the pension was fraudulently obtained, and an order was issued suspending further payment, under section 4720 Revised Statutes United States, and a special agent was sent to North Carolina to investigate and report. The evidence taken by him has been transmitted to the committee, together with the original papers filed in support of the claim.

The name of Ledford does not appear upon the rolls of Company F, North Carolina Mounted Infantry, on file in the office of the Adjutant-General, nor is there any satisfactory evidence that he ever served or enlisted in the Army of the United States.

Joseph Hamilton, captain of said company during its entire organization, swears, August 15, 1877, that Ledford never was a member of said company, and that the company, and no part of it, was ever on duty at any time in that part of the country where it is alleged that the service of Ledford was performed.

Hugh C. Hamilton swears, June 19, 1877, that Ledford enlisted in the rebel army early in the war, and deserted during the autumn of 1863; that he joined Company B, Second North Carolina Mounted Infantry, and served about thirty days, when he again deserted at Cumberland Gap. The affiant remembers that Ledford told him he intended to desert, and endeavored to persuade him and his brother to leave the service and go home; that soon afterward Ledford was captured by the rebels, taken back to his regiment, tried, and shot for desertion.

Thomas M. Cole swears to the same facts in substance, and adds that

Ledford lived within the enemy's lines, and that this part of the country was not penetrated by the Union forces till after his death.

Among the papers in the case is a letter from Thomas W. Patton, captain Company C, Sixtieth North Carolina rebel regiment, dated Dalton, Ga., May 4, 1864, addressed to Mrs. Ledford, and informing her that her husband had been shot at half past eleven o'clock on the morning of that day, for desertion, and that he was resigned to his fate.

In her original application Mrs. Ledford claimed to be the mother of three children. In her petition presented to the Senate, upon which the bill was reported, she is alleged to be the mother of nine children, all under sixteen years of age. It is but just to say that she is an illiterate woman, unable to write her name, and that she probably appended her mark to the various papers in the case without any other knowledge of their contents than that which was communicated to her by the thieving attorneys who devised and perpetrated this nefarious fraud upon the government.

The committee recommend that the bill do pass.

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45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 14.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 19, 1877.—Ordered to be printed.

Mr. PADDOCK, from the Committee on Post-Offices and Post-Roads submitted the following

REPORT:

[To accompany bill S. 145.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. 145) for the relief of Edwin A. Clifford, having considered the same, unanimously report thereon:

It appears from the evidence before the committee that E. A. Clifford was postmaster at Evanston, Ill. On the night of the 27th of February, 1876, his office was entered by a gang of professional burglars from Chicago, (the entrance was effected by digging a hole through the wall into the vault,) who by the use of gunpowder blew open the safe and rifled it of its contents. The building was the one rented for the use of the post-office. The loss consists in $98.51 in money-order funds, $546.57 in stamps and stamp-funds. The report of the special agent of the department who examined the case discloses the fact that two of the robbers had been arrested up to the time the report was made. The robbers also took two drafts which had been drawn on New York, but up to last reports they had not been presented for payment, and it is supposed that they were destroyed. The robbery does not seem to have resulted from any fault of the postmaster.

It appears from the evidence that the Post Office Department was notified of the burglary and loss of money and stamps, and that a special agent immediately investigated and reported as above. The committee are therefore of the opinion that the claim for $645.08 should be allowed.

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45TH CONGRESS, 1st Session. | SENATE. | REPORT. No. 15.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 21, 1877.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 32.]

The Committee on Claims, to whom was referred the bill (S. 32) for the relief of J. M. Micow and others, have duly considered the same so far as it relates to J. M. Micow, and submit the following report:

During the session of the Forty-fourth Congress, Senate bill No. 109, for the relief of the estate of J. M. Micow, was introduced, and referred to your committee. On August 4, 1876, your committee made the following report, to wit:

The Committee on Claims, to whom was referred the bill for the relief of the estate of J. M. Micow, have had the same under consideration, and submit the following report:

Senate bill No. 109, for the relief of the estate of J. M. Micow, of the State of Alabama, directs the proper accounting-officers of the Treasury to audit and settle the claims of said estate for rent of buildings accruing after the suppression of hostilities in the late war, and for which a voucher was given, now on file in the Treasury Department, and allow him the sum named in the said voucher, $685.67.

Your committee, through Mr. Caperton, addressed the Secretary of War relative to the above claim, and received in reply the following papers duly certified by him:

[No. 22.]

THE UNITED STATES TO J. M. MICOW, DR.

April 30, 1866.—For rent of storehouse on Commerce street, used for storing quartermasters' stores, from April 3, 1866, to April 30, 1866, being 28 days, at $85 per month $79 33

I certify that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, as per my report of persons and articles for month of April, 1866.

H. B. WHETSEL,
Captain and Assistant Quartermaster.

Received at Mobile, Ala., the 22d of May, 1866, of Col. M. D. Wickersham, chief quartermaster Department of Alabama, the sum of seventy-nine dollars and thirty-three cents in full of the above account.

[Form No. 2.]

Report of persons and articles employed and hired at Montgomery, Ala., during the month of April, 1866, by H. B. Whetsel, captain and assistant quartermaster, U. S. A.

Names of persons and articles.	Designation and occupation.	Service during the month.			Rate of hire or compensation.			Date of contract.	By whom owned.	Amount of rent in the month.	Time and the amount due and remaining unpaid.			
		From—	To—	Days.	Dollars.	Cents.	Day, month, or voyage.				From—	To—	Dollars.	Cents.
One storehouse on Commerce street.	Quartermasters' stores.	1	30	30	85	00	Month	Aug. 1, 1865.	J. M. Micow.	$85 00	Aug. 1	Apr. 30	765	00

REMARKS.—Transferred by Capt. E. P. Graves, A. Q. M. Used for quartermasters' stores. Vacated April 30, 1866.

I certify on honor that the above is a true report of all the persons and articles employed and hired by me during the month of April, 1866; that the observations under the head of "remarks" and the statement of the amounts due and remaining unpaid are correct.

H. B. WHETSEL,
Captain and Assistant Quartermaster.

Examined.

JAMES P. BROWN,
First Lieutenant, Fifteenth Infantry, Commanding.

A communication relative to the claim, and inclosing the following, was received from the Secretary of the Treasury:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
Washington, D. C., January 3, 1876.

I hereby certify the papers hereto annexed to be true copies of the originals on file in this office with claim No. 26995, and that the claim has not been settled for the reason the voucher does not state where the property is situated; nor is the claimant's title to the property shown.

HORACE AUSTIN, *Auditor.*

The United States to J. M. Micow.

May 19, 1866. DR.

For rent of storehouse on Commerce street, used for storing quartermasters' stores, from August 1, 1865, to April 2, 1866, both days inclusive, being 8 month and 2 days, at $85 per month $685 67

I certify that the above account is correct and just; that the services were rendered as stated; that they were necessary for the public service, and are borne in my report of persons, &c., for the month of April, 1866.

H. B. WHETSEL,
Captain and Assistant Quartermaster.

On the back of the voucher is the following indorsement:

CHIEF QUARTERMASTER'S OFFICE, DEPARTMENT ALABAMA,
Mobile, May 22, 1866.

Instructions of the department permit payment of rent for time subsequent to the 2d day of April, 1866, only, per G. O. No. 6, C. Q. M. O., M. D. T., current series.

M. D. WICKERSHAM,
Colonel and Chief Quartermaster.

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
November 14, 1872.

Respectfully referred to the Quartermaster-General for examination and report. Claim of J. M. Micow for rent, $685.67.

ALLAN RUTHERFORD, *Auditor.*

Respectfully returned to the Third Auditor of the Treasury.

The service covered by the inclosed certified account has been reported to this office by the certifying officer as required by regulations.

By order of the Quartermaster-General.

M. I. LUDINGTON,
Quartermaster, U. S. A.

QUARTERMASTER-GENERAL'S OFFICE, *February* 10, 1873.

Your committee find that the property for which rent is claimed was rented from J. M. Micow August 1, 1865; that it was occupied under the said contract at a monthly rental of $85 per month until April 30, 1866; that Micow was paid $79.33, the amount accruing after April 2, 1866, and that there still remains due and unpaid $685.67, the amount named in the bill. They therefore recommend its passage.

Said bill, so reported afterward, passed the Senate, and was favorably reported in the House of Representatives by the Military Committee, in January, 1877, but was not acted upon.

After a re-examination of the case, your committee adopt and concur in the above report made to the Forty-fourth Congress.

The bill S. 32 embraces the claims of sundry parties. Your committee have only considered the claim of the estate of J. M. Micow in this report, and report a substitute for said bill, and recommend the passage of the substitute so reported, directing the Secretary of the Treasury to pay to the estate of J. M. Micow, upon presentation of proper evidence of the qualification of an administrator of his estate, the sum of $685.67, for rent of storehouse in Montgomery, Ala., from August 1, 1865, to April 2, 1866, used for quartermasters' stores, under a contract with said Micow, at a rental of $85 per month.

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45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 16.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 26, 1877.—Ordered to be printed.

Mr. WADLEIGH, from the Committee on Privileges and Elections, submitted the following

REPORT:

The Committee on Privileges and Elections, to whom were referred the credentials of William Pitt Kellogg and the credentials of Henry M. Spofford, for the same seat in the Senate of the United States, ask leave to submit the following report:

Mr. Kellogg claims to have been elected on the 10th day of January, 1877. Mr. Spofford claims to have been elected on the 24th of April, 1877. In an inquiry into these cases upon their merits, the first question which arises is, whether the body which elected Mr. Kellogg was the lawful legislature of Louisiana at the time of such election?

There was in said State on the 6th of November, 1876, an election for governor, lieutenant-governor and members of the general assembly. The statements of the votes cast at such election were required by law to be sent to a board of returning-officers for all elections in the State. Said returning-officers were by law authorized and required to ascertain, return, and certify the election of members of the general assembly. No other tribunal was clothed with that power or duty. They were required to report their decisions to the secretary of state, and it was by law provided that the secretary of state should transmit to the clerk of the house of representatives and secretary of the senate of the last general assembly, a list of the names of such persons as, according to the decisions of the returning-officers, were elected to either branch of the general assembly.

It was the duty of the said clerk and secretary to place the names of such persons so furnished upon the roll of the house and the senate, respectively, and those representatives and senators whose names were so placed by the clerk and secretary, and none others, were competent to organize the house of representatives or senate.

The secretary of state, in obedience to the statute, transmitted to the clerk of the former house and secretary of the senate a list of the names of persons by the said returning-officers decided to have been elected to either branch of the general assembly, and from the list thus furnished the clerk and secretary organized each house of the State legislature on the 1st day of January, 1877.

By the constitution of Louisiana the house of representatives is composed of 120 members and the senate of 36 members. There is no doubt that 61 members of the house constitute a quorum of that body, and that 19 members constitute a quorum of the senate. There were present at the organization, and took part in the proceedings, 8 senators holding over, and 11 newly-elected—19 in all—having the certifi-

cates of said returning-officers, which was a quorum, and 68 representatives, thus declared to have been elected, being seven over a quorum. After such organization, the members of the two houses assembled in joint convention on the 10th day of January, 1877, to elect a Senator of the United States.

Upon reading the journal of each house it was found that no election of Senator had been made the day before. The roll of each house was called, and it was found there were present in the joint convention 17 senators and 66 representatives, they composing a majority of all the members of the general assembly of the State. Nominations were then made for Senator, and a *viva-voce* vote was had, and William Pitt Kellogg received the votes of 17 senators and 66 representatives, and was declared by the president of the senate (the presiding officer of the joint convention) to have received a majority of all the votes of the general assembly, and to have been duly elected a Senator of the United Sates for the term of six years, beginning on the 4th day of March, 1877.

Your committee find that said election was held strictly in accordance with the act of Congress of 1866, to regulate the times and manner of holding elections for Senator. The credentials of Mr. Kellogg are signed by Stephen B. Packard, as governor of the State of Louisiana, and bear date the 11th day of January, 1877.

It appears to your committee that Mr. Packard was on that day the lawful governor of the State of Louisiana. By the constitution of Louisiana the returning-officers are required to seal up and transmit the returns of the election of governor and lieutenant-governor to the secretary of state, who shall deliver them to the speaker of the house of representatives on the second day of the session of the general assembly then to be holden.

On the second day of the session the legislature proceeded to count the votes for governor and lieutenant-governor, there being then present 21 senators and 68 representatives, two over a quorum of the senate and seven over a quorum of the house. The committee appointed by the two houses to make and canvass the votes for governor and lieutenant-governor reported that Stephen B. Packard was elected governor and C. C. Antoine lieutenant-governor of said State, and that by the following vote:

For governor:	
Stephen B. Packard	74,624
Francis T. Nicholls	71,198
For lieutenant-governor:	
C. C. Antoine	74,669
L. A. Wiltz	71,093

Upon the facts hereinbefore stated your committee are of the opinion:

First, that the returning-officers of Louisiana were a lawful tribunal, solely authorized and required to ascertain, return, and certify the election of members of the general assembly;

Second, that those, and only those who held certificates of election from said returning-officers were entitled to seats in the general assembly at the organization thereof;

Third, that the body which first organized with a quorum of members in each branch thereof, having such certificates, and which was duly recognized by the lawful governor of said State, was the lawful legislature.

The proof before your committee seems conclusive that at the time the legislature which elected Kellogg was organized there were present a quorum of each house thereof then lawfully entitled to seats therein;

that at the time of his election there were present a quorum of the general assembly then lawfully entitled to seats therein, all of whom voted for said Kellogg, and that said legislature was recognized by the lawful governor of said State. It was, however, contended by Mr. Spofford that it was the duty of your committee to go behind the certificates of the returning-officers and investigate the elections of individual members of the general assembly. At his request your committee did investigate such elections and find the following facts:

Of the lawful election of fifty-seven members of the house of representatives which aided in electing Mr. Kellogg, there is no dispute whatever, and they now sit in the Nicholls house, which took part in the election of Mr. Spofford. Three more of the members of the Packard house, from the parish of Orleans, were, until recently, admitted on all hands to have had a majority of the votes cast, and your committee find that they were lawfully elected. Besides these sixty members of the house, there were eleven more whose election is disputed by Mr. Spofford upon the ground that they did not receive a majority of the votes cast. Of the twenty-one members of the senate which participated in the election of Mr. Kellogg, there were sixteen whose right to hold their seats is admitted.

The election of three more from the twelfth, eighteenth, and twenty-second senatorial districts is disputed upon the ground that they did not receive a majority of the votes cast. Two more, Baker and Kelso, were not declared elected by the returning-board, but were seated by a vote of the senate acting under its constitutional right to judge of the election of its own members.

Complaint is made by Mr. Spofford that one Steven, a lawful senator, was taken against his will into the senate and detained there against his will for the purpose of making a quorum. Your committee believe there is no good reason for such complaint. If the senate had organized with a quorum of members lawfully entitled to seats therein, as was the case, it had the undoubted right to compel the attendance of absent members.

The senators and members, whose title to seats is disputed on the ground that they did not receive a majority of the votes cast, were those declared elected by the returning-board on account of the rejection of the votes cast at certain polls in the parishes of East Baton Rouge, De Soto, West Feliciana, La Fayette, Morehouse, Ouachita, and Webster, in the twelfth senatorial district, composed of the parishes of East Feliciana, West Feliciana, and Point Coupee; the eighteenth senatorial district, composed of the parishes of Ouachita and Caldwell; and the twenty-second senatorial district, composed of the parishes of Natchitoches, De Soto, Red River, and Sabine.

There were no votes rejected in the parishes of Sabine, Point Coupee, and Red River. A comparatively small number of the votes were rejected on account of the obvious illegalities, informalities, and misconduct of the election officers, and there is little complaint on account of the rejection of such votes. The rest were rejected on account of violence and intimidation which prevented a fair election. The evidence of such intimidation is overwhelming and irrefutable. Many of the Republican leaders were killed, others were tortured, others driven into exile. Companies of armed men paraded the parishes by night, carrying terror wherever they went.

Your committee has no space to recount or refer to a tithe of the horrible outrages perpetrated to prevent the Republicans from exercising the free right of suffrage. They were evidently perpetrated in localities

where the result of the election would thereby be most strongly affected, and they had their intended effect. But for these numerous and horrible crimes, your committee believe that the candidates upon the State and National Republican tickets would have been elected beyond dispute, and that the general assembly would have been overwhelmingly Republican.

In 40 parishes, where it is admitted on all hands the election was fair and peaceable, the colored registration in 1876 numbered 87,999, the white registration 72,034, showing a colored majority of 15,965. Those 40 parishes returned 65,747 Republican votes and 59,392 Democratic votes, a Republican majority of 6,353 votes. In the 17 terrorized parishes the colored registration was 27,269, the white registration was 20,320, a colored majority of 6,949, almost half as large as the registered colored majority in all the rest of the State. But the vote in those 17 parishes as cast, showed but 10,970 Republicans and 21,123 Democrats. Thus those 17 parishes, with a colored majority of nearly 7,000 registered, cast a Democratic majority of 10,153. In the 10 parishes of East Baton Rouge, Caldwell, De Soto, East Feliciana, West Feliciana, La Fayette, Morehouse, Natchitoches, Ouachita, and Webster, in which (on account of the rejection of polls by the returning-board) the 11 disputed members of the house and 3 disputed members of the senate were declared elected by the returning-officers, there were, in 1876, 19,174 colored voters and 11,212 white voters registered, being a colored majority of 7,962.

In the same parishes there were cast 14,510 Democratic and 8,489 Republican votes, being a Democratic majority of 6,021. In the strong Republican parish of East Feliciana, where leading Republicans had been terrorized into procuring the appointment as sheriff of a Democratic leader, whose career had been that of a brigand, upon his promise of peace and conciliation, only three Republicans dared to vote. There is no evidence to show, and it is not pretended, that the same arguments and methods of persuasion were not employed by the Democrats in the forty parishes above referred to as were used in the seventeen terrorized parishes; but in the seventeen parishes numerous and frightful crimes were deliberately perpetrated to carry the election; in the others not. The difference in the vote shows too strongly to be affected by argument or clouds of perjured witnesses, the perpetration of such outrages and their effect.

It was contended by Mr. Spofford before your committee that the returning-officers were guilty of fraud in rejecting the polls hereinbefore referred to, and that in so doing they exceeded the authority conferred upon them by law. Your committee find, however, that the returning-board in so doing acted not fraudulently but in good faith; and that in their construction of the law under which they acted they were sustained by precedents and by able legal opinions.

They were charged by Mr. Spofford with having committed forgery in altering the statement of votes from the parish of Vernon. Testimony in reference to that matter was taken at great length by the Field and Morrison committees of the House, and the Howe committee of the Senate. It clearly and conclusively shows, in the opinion of your committee, that the returning-officers had no motive to commit such crime; that they before had published the true statement of the vote, and must therefore have known that, if such a crime was committed, it would be immediately detected; and that the real, the only criminal, was the witness by whose hand the alterations were made, who confessed that he did not know the true vote had been published.

who had the strongest personal motives to commit the crime, and who testified with the understanding that he should have a good office if Mr. Tilden was elected.

But the law is clear that, even had the returning officers been guilty of fraud, or had mistakenly exceeded their authority, it was the right and the duty of the persons returned by them as elected to take their seats in the general assembly. The law on this point is thus laid down by Cushing in his Law and Practice of Legislative Assemblies, page 52, section 141:

It remains to be observed, in conclusion, that the proceedings of these [returning] officers, from the necessity of the case, are, in the first instance, uncontrollable by any other authority whatever; so that if, on the one hand, notwithstanding an election has been effected, the returning-officers refuse or neglect to make the proper return, the party thereby injured is without remedy or redress until the assembly to which he is chosen has examined his case and adjudged him to be duly elected; and, on the other hand, if the returning-officers make a return when no election has in fact taken place, or of one who is not eligible, the person returned will not only be entitled, but it is his duty, to assume and discharge the functions of a member until his return and election are adjudged void.

A strong case in point occurred in the State of New Hampshire in 1875. The governor and council of that State, whose duty it was to count the votes for and issue certificates of election to State senators, rejected and threw out 3,771 votes, being all those cast and returned for Natt Head, a candidate for senator, upon the ground that the name by which he had been universally known, by which he had been commissioned adjutant-general of the State, and which he had regarded and used as his real name during many years of business and political life, was not his full Christian name. They also threw out and rejected 46 votes cast for Arthur Dearing, also a candidate for senator, upon the ground that he was not a resident of the State. By such action the governor and council were enabled to give certificates of election to James Priest and John Proctor, thus giving the Democrats the control of the senate. Application was made to the supreme court of the State, as provided for by the constitution, for the opinion of said court upon the effect of such action. In their opinion, which may be found in the 56th volume of New Hampshire Reports, the court say:

By this action of the governor and council, whether it be regarded as within or exceeding their constitutional powers, Messrs. Priest and Proctor received the usual credentials, which authorized them to assemble with the other ten senators and take the oath of office; and they thereupon became Senators, subject to the constitutional authority of the senate as final judges of the qualifications and elections of its members.

When your committee decided to go behind the certificates of the returning-officers, and to seek the real merits of the case in the thousands of pages of printed testimony taken for the use of the Senate and House, Mr. Spofford contended that your committee should simply ascertain the number of votes deposited in the ballot-boxes at the election. Your committee believe, however, that if their inquiry is to extend beyond the question as to who were the lawful governor of Louisiana and the lawful members of the general assembly, it should go far enough to ascertain how far the freedom of election was impaired by intimidation, violence, and crime. The law on this subject is thus stated by Cushing in his Law and Practice of Legislative Assemblies, pages 67, 68, section 181:

The great principle, which lies at the foundation of all elective governments, and is essential indeed to the very idea of election, is, that the electors shall be free in the giving of their suffrages. This principle was declared by the English Parliament, with regard to elections in general, in a statute of Edward I, and with regard to elections of members of Parliament, in the Declaration of Rights. The same principle is asserted

or implied in the constitutions of all the States of the Union. Freedom of election is violated by external violence, by which the electors are constrained, or by bribery, by which their will is corrupted; and in all cases where the electors are prevented, in either of these ways, from the free exercise of their right, the election will be void without reference to the number of votes thereby affected.

The evidence clearly proves, and your committee believe, that, by intimidation, violence, and crime, freedom of election was utterly destroyed at those polls in the ten parishes heretofore referred to, whose votes were rejected by the returning-officers; that in throwing out such polls and declaring the Republican candidates elected, the returning-officers did that which they believed to be legal, and which was really equitable and just, and what the two houses of the general assembly would have been bound in law to do with the facts before them. They believe, therefore, that the members by whose votes the general assembly was organized, and a sufficient number of the members by whose votes Mr. Kellogg was elected, were not only lawfully but equitably entitled to their seats.

It is contended by Mr. Spofford that the legislature which elected Mr. Kellogg and the governor who signed his credentials have vanished from political existence, and ceased to have any authority in the State of Louisiana, and that, therefore, if for no other reason, his own election is valid. Your committee find that at and after the organization of the legislature which elected Mr. Kellogg an overwhelming array of armed and organized military force was used to destroy and crush out the lawful State government of Louisiana. By it the courts were overthrown and annihilated, and under its constantly impending menace the lawful legislature gradually melted away, and its terrorized members sought safety in the so-called Nicholls legislature or abdicated their rights.

By such, and perhaps other equally illegal means, the so-called Nicholls legislature at length came to contain an undisputed majority of the members lawfully elected to the general assembly, and on the 24th day of April that legislature chose Mr. Spofford, the contestant, a Senator of the United States. Your committee are of the opinion that his claim is not well founded. Until and after the election of Mr. Kellogg, Governor Packard, and what is known as his legislature, were *de facto* and *de jure* the government of Louisiana. Upon that legislature devolved the duty of electing a Senator of the United States. That duty was performed by them in the election of Mr. Kellogg. No subsequent events, especially successful revolution, through treasonable force, could undo what had been lawfully done. The doctrine contended for by Mr. Spofford, if established, would render insecure all political vested rights. It would offer a premium to overthrow by force the result of every sharply contested election, and at no distant day reduce this country to the unhappy condition of those wretched communities which are continually a prey to disorder and civil war.

Your committee, therefore, report the following resolutions, and recommend their passage:

Resolved, That William Pitt Kellogg is, upon the merits of the case, lawfully entitled to a seat in the Senate of the United States from the State of Louisiana for the term of six years, commencing on the 4th day of March, 1877, and that he be admitted thereto upon taking the proper oath.

Resolved, That Henry M. Spofford is not entitled to a seat in the Senate of the United States.

VIEWS OF THE MINORITY

On the 18th day of October last the Senate referred to the Committee on Privileges and Elections a resolution, of which the following is a copy:

Resolved, That the credentials of Henry M. Spofford, claiming to be a Senator from the State of Louisiana, be referred to the Committee on Privileges and Elections; and the said committee shall also consider and report upon the credentials of William Pitt Kellogg.

That committee having had the subject embraced by that resolution under consideration, a majority of the committee have agreed to a report in favor of seating Mr. Kellogg as Senator. The undersigned, members of the committee, do not concur in that report, and beg leave to submit to the Senate some of the reasons which impel them to dissent.

An election was held in the State of Louisiana on the 7th day of November, A. D. 1876, for a governor and members of the legislature. Francis T. Nicholls and Stephen B. Packard each claimed that he was elected governor at that election, and on and after the 8th day of January last each claimed to be the governor of that State. Two rival bodies of men composed of persons claiming to have been elected at that election, were organized on the first day of January last in the city of New Orleans, and each claimed to be the lawful legislature of the State, one of these bodies commonly called "the Nicholls legislature," and the other "the Packard legislature." This conflict of claim, aggravated by the recollections of like repeated contests in the past, produced general angry commotions among the contestants and the people, which seriously threatened the peace of society and a state of anarchy. Detachments of the Army of the United States were employed for many weeks to preserve the peace and prevent bloodshed. It will not be denied that the people of that State of all classes and conditions were profoundly and fearfully agitated.

At length this conflict and contest of claim was peacefully settled, and Mr. Nicholls was and ever since that time has acted and been recognized as governor by all the co-ordinate branches of the state government and the people generally, and also by the President and other authorities of the United States having occasion to recognize and communicate with the governor of that State. And what has been designated as "the Nicholls legislature" has likewise been so recognized as the lawful and only legislature, and its acts purporting to be statutes, passed since its first organization, have been regularly published and recognized as laws of that State by all departments of the State government and the people. Throughout the State the so-called "Packard legislature" has entirely disappeared, and most of its members—all those lawfully elected—have taken seats in the lawful legislature. This settlement has happily brought peace, order, and wholesome government out of fearful strife and disorder. It seems to be gratefully accepted by the great mass of the people of that State of both colors, and the few malcontents, if any, are moved by considerations of personal interest.

After the settlement referred to, "the Nicholls legislature" elected Henry M. Spofford to be a Senator in the United States Senate, "the Packard legislature," having, a few days after its pretended organization, on the day of January last, pending the contest, and in the midst of disorder, purported to elect Mr. Kellogg Senator. Indeed, the facts and circumstances point strongly to the conclusion that the main if not the only purpose of "the Packard legislature" organization was to elect Mr. Kellogg Senator. But be this as it may, the body that undertook to elect him had no legal existence, as will hereafter appear. He purported to be elected pending a heated contest as to its legality, and since that time it has abandoned its organization and claim, and most of its members went into and became part of "the Nicholls legislature," and voted for Mr. Spofford.

Looking to the permanent peace and well-being of the people of Louisiana, after many years of discord and strife which have agitated the people of the whole Union, as well as the strict right, the undersigned deemed it important in the highest degree that the Senate should accept that settlement made by the authorities and accepted by the people, as a finality; and, looking to that end, Mr. Hill, in committee, offered a resolution in these words:

The controversies heretofore existing in the State of Louisiana as to which of two rival bodies was the legislature of that State and as to which of two rival claimants was the governor of said State having been settled by the State itself since the last adjournment of the Senate,

Resolved, That the Senate do recognize and accept said settlement as final.

This resolution was rejected by the unanimous vote of the Republicans of the committee, while it received only the votes of the undersigned. We solemnly protest against reopening political controversies in Louisiana, and sincerely deplore the occasion for doing so. Let the grave responsibility rest with those who have insisted upon doing so.

The majority of the committee having thus determined to ignore the settlement referred to, it was then deemed necessary to examine fully and fairly the real merits of the claims respectively of Messrs. Spofford and Kellogg; and with that view Mr. Merrimon, in committee, offered a resolution in these words:

Resolved, That the committee proceed to examine and ascertain the substantial merits of the respective claims of Hon. W. P. Kellogg and Hon. H. M. Spofford to a seat in the Senate as a Senator from the State of Louisiana, and to this end to inquire particularly which, or whether either, of the two rival bodies claiming to be the legislature of said State, in January and April last, was the true and lawful legislature of said State.

This resolution was unanimously adopted after hearing the contestants at length, Mr. Kellogg being heard by his counsel, Mr. Shellabarger. The contestants were each requested to indicate what testimony he desired to produce, and after debate they were requested to confer and see what state of facts they could agree upon touching controverted material points at issue. Statements were submitted to Mr. Kellogg touching the result of the election in parishes indicated, and Mr. Kellogg made a statement in that respect in reply. These statements were received as evidence, and it was further agreed to receive the testimony, or so much thereof as may be pertinent, taken by Congressional committees commonly known as the "Howe committee," the "Morrison committee," the "Sherman committee," and the "Field committee," touching Louisiana affairs. Mr. Spofford did not object to the reception of this testimony, but he strenuously insisted on being allowed to take testimony in support of the several allegations specified by him, as follows: He offered testimony to prove—

1. That the facts relative to the election of Tremoulet, Cressy, and Rolle, from the seventh representative district of New Orleans, were substantially as set forth in the statement read by H. M. Spofford in his argument before this committee on the 24th October, 1877.

2. That the composition, votes for Senator, and political proclivities of the legislature on the 24th April, 1877, when H. M. Spofford was elected Senator, were substantially as set forth in the aforesaid argument.

3. That by the actual returns or statements as made in duplicate by the supervisors of registration, (and assistant supervisors,) with their appointees, the commissioners of election, and sent, one set to the clerk of the district court of each parish in the county and to the secretary of state in the city, and the other set to the returning-board, (so called,) showed a majority of votes actually cast throughout the State of about 8,000 votes for Nicholls and Wiltz over Packard and Antoine for the offices of governor and lieutenant-governor in the election that took place in Louisiana November 7, 1876.

4. Besides these specific violations of the constitution and of the law under which they pretended to act, I charge that the conduct of the returning-officers in suppressing polls and changing the result of the constitutional returns was clandestine, collusive, tyrannical, and unjust; that the real work of conducting an election under pretext of compiling votes was proceeded with in a secret chamber by a corps of partisan clerks, while the occasional open sessions of the board were side-shows, devised to screen what was going on within; that arbitrary rules of evidence were established for pretended contests, and changed so often and abruptly that no fair trial could be had or was had before the board; that illegal complaints were constantly received and illegal evidence admitted for the purpose of setting aside polls that were in the way of such candidates as the board desired to elect; and that Mr. Kellogg himself, then governor, joined in making illegal complaints and inducing the board to consider them.

5. I am informed and so charge that the returns from Vernon Parish, after they came into possession of the returning-officers, and while they were under their control, were fraudulently altered by a change of figures, tantamount to a forgery of a public record; that the board knew what the figures upon those returns were before their alteration, and yet after the alteration promulgated the results of said forgery as the true returns; that by such fraudulent alteration E. E. Smart, candidate for representative in the State assembly, who had in fact and according to the returns as they first came to the board defeated his competitor, Brown, was left behind, and Brown, the defeated candidate, falsely declared elected; and that said Brown took his seat in the Packard house, and figures on the journal as present on the 2d of January, 1877, when there was a pretended count of votes for governor and lieutenant-governor in joint assembly, and perhaps on one or two other occasions, but that he afterward abandoned that body and went home, acknowledging that he never had been elected.

We are of opinion that the testimony so proposed by Mr. Spofford is material and ought, in justice to him and the Senate, to have been received. Besides, it cannot be truly said that the respective claims of the contestants have been decided upon their "substantial merits," when one of them is not allowed to produce material testimony, which he offers and is anxious to produce. And it may be that a decision made by the Senate now, without fair opportunity to produce such testimony, may be reviewed and reversed at some future time. It is well to put an end to controversy now by allowing both the contestants the fullest and fairest opportunity to produce all material testimony. We think, therefore, that the whole matter ought to be recommitted to the committee, to the end the proposed testimony may be taken.

The following provisions of the constitution of Louisiana are material to a proper understanding of the points raised in the contest now under consideration:

ART. 15. The legislative power of the State shall be vested in two distinct branches, the one to be styled the house of representatives, the other the senate, and both the general assembly of the State of Louisiana.

ART. 16. The members of the house of representatives shall continue in office for two years from the day of the closing of the general elections.

ART. 17. Representatives shall be chosen on the first Monday in November every two years, and the election shall be completed in one day. The general assembly shall meet annually on the first Monday in January, unless a different day be appointed by law, and their sessions shall be held at the seat of government.

ART. 19. Elections for members of the general assembly shall be held at the several election precincts established by law.

ART. 27. The members of the senate shall be elected for the term of four years; and when assembled, the senate shall have power to choose its own officers, except as hereinafter provided.

ART. 31. At the first session of the general assembly after this constitution goes into effect, the senators shall be divided equally by lot into two classes; the seats of the senators of the first class to be vacated at the expiration of the term of the first house of representatives; those of the second class at the expiration of the term of the second house of representatives, so that one-half shall be chosen every two years successively. When a district shall have elected two senators, their respective terms of office shall be determined by lot between themselves.

ART. 33. Not less than a majority of the members of each house of the general assembly shall form a quorum to transact business; but a smaller number may adjourn from day to day, and shall have full power to compel the attendance of absent members.

ART. 34. Each house of the general assembly shall judge of the qualifications, election, and returns of its members; but a contested election shall be determined in such manner as may be prescribed by law.

ART. 46. Returns of all elections for members of the general assembly shall be made to the secretary of state.

ART. 48. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the governor of the State of Louisiana. He shall hold his office during the term of four years, and, together with the lieutenant-governor, chosen for the same term, be elected as follows: The qualified electors for representatives shall vote for governor and lieutenant-governor at the time and place for voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning-officer to the secretary of state, who shall deliver them to the speaker of the house of representatives on the second day of the session of the general assembly then to be holden. The members of the general assembly shall meet in the house of representatives to examine and count the votes. The person having the greatest number of votes for governor shall be declared duly elected; but in case of a tie vote between two or more candidates, one of them shall immediately be chosen governor by joint vote of the members of the general assembly. The person having the greatest number of votes polled for lieutenant-governor shall be lieutenant-governor; but in case of a tie vote between two or more candidates, one of them shall be immediately chosen lieutenant-governor, by joint vote of the members of the general assembly

ART. 51. The governor shall enter on the discharge of his duties on the second Monday in January next ensuing his election, and shall continue in office until the Monday next succeeding the day that his successor shall be declared duly elected, and shall have taken the oath or affirmation required by the constitution.

ART. 73. The judicial power shall be vested in a supreme court, in district courts, in parish courts, and in justices of the peace.

ART. 94. No judicial powers, except as committing-magistrates in criminal cases, shall be conferred on any officers other than those mentioned in this title, except such as may be necessary in towns and cities; and the judicial powers of such officers shall not extend further than the cognizance of cases arising under the police regulations of towns and cities in the State. In any case where such officers shall assume jurisdiction over other matters than those which may arise under police regulations, or under their jurisdiction, as committing-magistrates, they shall be liable to an action of damages in favor of the party injured, or his heirs; and a verdict in favor of the party injured shall, *ipso facto*, operate a vacation of the office of siad officer.

ART. 103. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting under adequate penalities all undue influence thereon from power, bribery, tumult, or other improper practice.

ART. 107. In all elections by the people the vote shall be taken by ballot; and in all elections by the senate and house of representatives, jointly or separately, the vote shall be given *viva voce*.

ART. 133. No judicial powers shall be exercised by clerks of courts.

And the following sections from the statute of that State approved November 20, 1872, commonly called the election law:

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Louisiana in general assembly convened*, That all elections for State, parish and judicial officers, member of the general assembly, and for members of Congress, shall be held. on the first Monday in November, and said election shall be styled the general election. They shall be held in the manner and form, and subject to the regulations hereinafter prescribed, and in no other.

SEC. 2. *Be it further enacted, &c.*, That five persons, to be elected by the Senate from all political parties, shall be the returning officers for all elections in the State,

majority of whom shall constitute a quorum, and have power to make the returns of all elections. In case of any vacancy by death, resignation, or otherwise, by either of the board, then the vacancy shall be filled by the residue of the board of returning officers. The returning officers shall after each election, before entering on their duties, take and subscribe to the following oath before a judge of the supreme or any district court:

I, A. B., do solemnly swear (or affirm) that I will faithfully and diligently perform the duties of a returning-officer as prescribed by law; that I will carefully and honestly canvass and compile the statements of the votes, and make a true and correct return of the election: So help me God.

Within ten days after the closing of the election said returning-officers shall meet in New Orleans to canvass and compile the statement of votes made by *the commissioners of election*, and make returns of the election to the secretary of state. They shall continue in session until such returns have been compiled. The presiding officer shall, at such meeting, open, in the presence of the said returning-officers, *the statements of the commissioners of election*, and the said returning-officers shall, *from said statements*, canvass and compile the returns of the election in duplicate; one copy of such returns they shall file in the office of the secretary of state, and of one copy they shall make public proclamation, by printing in the official journal and such other newspapers as they may deem proper, declaring the names of all persons and officers voted for, the number of votes for each person, and the names of the persons who have been duly and lawfully elected. The return of the election thus made and promulgated shall be *prima-facie* evidence in all courts of justice and before all civil officers, until set aside after contest according to law, of the right of any person named therein to hold and exercise the office to which he shall by such return be declared elected. The governor shall, within thirty days thereafter, issue commissions to all officers thus declared elected, who are required by law to be commissioned.

SEC. 3. *Be it further enacted, &c.*, That in such canvass and compilation the returning-officers shall observe the following order: They shall compile first the statements from all polls or voting-places at which there shall have been a fair, free, and peaceable registration and election. Whenever from any poll or voting-place there shall be received the statement of any supervisor of registration or commissioner of election, in form as required by section twenty-six of this act, on affidavit of three or more citizens of any riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences, which prevented or tended to prevent a fair, free, and peaceable vote of all qualified electors entitled to vote at such poll or voting-place; such returning-officers shall not canvass, count, or compile the statement of votes from such poll or voting-place until the statements from all other polls or voting-places shall have been canvassed and compiled. The returning-officers shall then proceed to investigate the statements of riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences at any such poll or voting place; and if from the evidence of such statement they shall be convinced that such riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did not materially interfere with the purity and freedom of the election at such poll or voting-place, or did not prevent a sufficient number of qualified voters thereat from registering or voting to materially change the result of the election, then, and not otherwise, said returning-officers shall canvass and compile the vote of such poll or voting-place with those previously canvassed and compiled; but if said returning-officers shall not be fully satisfied thereof, it shall be their duty to examine further testimony in regard thereto, and to this end they shall have power to send for persons and papers. If, after such examination, the said returning-officers shall be convinced that said riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did materially interfere with the purity and freedom of the election at such poll or voting-place, or did prevent a sufficient number of the qualified electors thereat from registering and voting to materially change the result of the election, then the said returning-officers shall not canvass or compile the statement of the votes of such poll or voting place, but shall exclude it from their returns: *Provided*, That any person interested in said election by reason of being a candidate for office, shall be allowed a hearing before said returning-officers upon making application within the time allowed for the forwarding of the returns of said election.

SEC. 8. *Be it further enacted, &c.*, That the election at each poll or voting-place shall be presided over by three commissioners of election, residents of the parish for at least twelve months next preceding the day of election, who shall be selected from different political parties, and be of good standing in the party to which they belong, and who shall, before entering upon the discharge of their duties, take and subscribe the oath prescribed for State officers. Should only one of the commissioners appointed be present at the hour for opening the poll, he shall appoint another, and both together shall appoint a third; and the commissioners so appointed shall take the oath and perform all the duties of commissioners of election in the same manner as if they had been appointed as provided for regular appointment of commissioners by this act. Any one

of the commissioners shall be authorized to administer the oath to the other co nmissioners. The commissioners of election for the several wards in the city of New Orleans shall be appointed by the mayor and administrators of the city of New Orleans.

SEC. 13. *Be it further enacted, &c.*, That it shall be the duty of the commissioners of election, at each poll or voting-place, to keep a list of the names of the persons voting at such poll or voting-place, which list shall be numbered from one to the end; and said list of voters, with their names and numbers as aforesaid, shall be signed and sworn to as correct by the commissioners, immediately on closing of the polls, and before leaving the place, and before opening the box. If no judge or justice of the peace, or other person authorized to administer such oath, be present to do so, it may be administered by any voter. The votes shall be counted by the commissioners at each voting-place, immediately after closing the election and without moving the boxes from the place where the votes were received, and the counting must be done in the presence of any bystander or citizen who may be present. Tally-lists shall be kept of the count, and after the count the ballots counted shall be put back into the box and preserved until after the next term of the criminal or district court, as the case may be; and in the parishes, except Orleans, the commissioners of election, or any one of them selected for that purpose, shall carry the box and deliver it to the clerk of the district court, who shall preserve the same as above required; and in the parish of Orleans the box shall be delivered to the clerk of the first district court for the parish of Orleans, and be kept by him as above directed.

SEC. 26. *Be it further enacted, &c.*, That in any parish, precinct, ward, city, or town in which during the time of registration, or revision of registration, or on any day of election, there shall be any riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences, at any place within said parish, or at or near any poll or voting-place, or place of registration or revision of registration, which riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences shall prevent, or tend to prevent, a fair, free, peaceable, and full vote of all the qualified electors of said parish, precinct, ward, city, or town, it shall be the duty of the commissioners of election, if such riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences occur on the day of election, or of the supervision of registration of the parish, if they occur during the time of registration, or revision of registration, to make in duplicate and under oath a clear and full statement of all the facts relating thereto and of the effect produced by such riot, tumult, acts of violence, intimidation, and disturbances, bribery, or corrupt influences in preventing a fair, free, peaceable, and full registration or election, and of the number of qualified voters deterred by such riots, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences from registering or voting, which statement shall also be corroborated under oath by three respectable citizens, qualified electors of the parish. When such statement is made by a commissioner of election or a supervisor of registration, he shall forward it in duplicate to the supervisor of registration of the parish, if in the city of New Orleans to the secretary of state, one copy of which, if made to the supervisor of registration, shall be forwarded by him to the returning-officers provided for in section two of this act, when he makes the returns of election in his parish. His copy of said statement shall be so annexed to his returns of elections, by paste, wax, or some adhesive substance, that the same can be kept together, and the other copy the supervisor of registration shall deliver to the clerk of the court of his parish for the use of the district attorney.

SEC. 43. *Be it further enacted, &c.*, That immediately upon the close of the polls on the day of election, the commissioners of the election at each poll or voting-place shall proceed to count the votes, as provided in section thirteen of this act, and after they shall have so counted the votes and made a list of the names of all the persons voted for, and the offices for which they were voted for, and the number of votes received by each, the number of ballots contained in the box, and the number rejected, and the reasons therefor, duplicates of such lists shall be made out, signed and sworn to by the commissioners of election of each poll, and such duplicate lists shall be delivered, one to the supervisor of registration of the parish, and one to the clerk of the district court of the parish, and in the parish of Orleans to the secretary of state, by one or all such commissioners in person, within twenty-four hours after the closing of the polls. It shall be the duty of the supervisors of registration within twenty-four hours after the receipt of all the returns for the different polling-places, to consolidate such returns, to be certified as correct by the clerk of the district court, and forward the consolidated returns, *with the originals received* by him, to the returning-officers provided for in section two of this act, the said report and returns to be inclosed in an envelope of strong paper or cloth, securely sealed, and forwarded by mail. He shall forward a copy of any statement as to violence or disturbance, bribery, or corruption, or other offenses specified in section twenty-six of this act, if any there be, together with all memoranda and tally-lists used in making the count, and statement of the votes.

SEC. 44. *Be it further enacted &c.*, That it shall be the duty of the secretary of state to transmit to the clerk of the house of representatives and the secretary of the senate

of the last general assembly a list of the names of such persons as, according to the returns, shall have been elected to either branch of the general assembly; and it shall be the duty of the said clerk and secretary to place the names of the representatives and senators elect so furnished upon the roll of the house and of the senate, respectively; and those representatives and senators whose names are so placed by the clerk and secretary, respectively, in accordance with the foregoing provisions, and none other, shall be competent to organize the house of representatives or senate. Nothing in this act shall be construed to conflict with article thirty-four of the constitution of the State.

The senate branch of the legislature of Louisiana is composed of thirty-six senators, nineteen being a quorum; the house branch is composed of one hundred and twenty members, sixty-one being a quorum. The election for governor and members of the legislature, styled the "general election," is held biennially, on the first Monday in November.

It will be observed that section 2, set forth above, of the statute regulating the manner of holding elections, provides for five "returning-officers" for all elections in the State, commonly called "*The returning-board.*" In view of the constitutional provisions above cited, this statutory provision is strange and anomalous. It suggests and imports a dishonest purpose; it savors of fraud; in the natural order of things, leaving out of view for the moment that it contravenes the constitution, it is unnecessary, illogical, and absurd, and it is not surprising that the returning-board has been one of the chief instrumentalities in the hands of desperate adventurers in producing the disorders and stormy conflicts that have disgraced and cursed the State and people of Louisiana ever since it came into existence. What necessary, reasonable, or honest purpose it can serve, we cannot see, and its whole history shows that it has accomplished much and lasting evil.

The statutory clause providing for "the returning-board," so far as it affects elections for governor and members of the legislature, manifestly comes in direct conflict with the constitution of Louisiana in two respects:

1. The forty-sixth article provides that "returns of all elections for members of the general assembly shall be made to the secretary of state;" and it is provided in article 48, * * * "The qualified electors for representatives shall vote for governor and lieutenant-governor at the time and place for voting for representatives; the returns of every election shall be sealed up and transmitted by the proper returning-officer to the secretary of state, who shall deliver them to the speaker of the house of representatives on the second day of the session of the general assembly then to be holden."

The term "returns" so used in the constitution plainly means the returns as made up by the election-officers in the several parishes. If the counting, tabulating, and certifying the votes by such officers is not making up the "returns," and if such officers are not returning-officers, then what is the statement of the votes, and what are such officers properly termed? What office do they perform? This is made the more manifest by the almost universal use of the term "return" in connection with elections in the State of Louisiana before the existence of the returning-board, and in most if not all the States in the Union. The constitution of Louisiana contains many provisions in reference to elections, and if it had been intended to attach such unusual meaning to the term "returns," such purpose would have been indicated by apt words. As there is no such unusual meaning indicated, the term must be taken in its ordinary acceptation when used in connection with elections. The clause of the statute providing for the returning-board requires that the "*returns*" shall be sent by the proper returning-officers

to "the returning-board," instead of to the secretary of state, as the constitution provides, and being so in conflict with the constitution it is null and void.

2. Article 73 of the constitution provides, "The judicial power shall be vested in a supreme court, in district courts, in parish courts, and in justices of the peace;" and article 94 provides, "No judicial powers, except as committing-magistrates in criminal cases, shall be conferred on any officers other than those mentioned in this title, except such as may be necessary in towns and cities, and the judicial powers of such officers shall not extend further than the cognizance of cases arising under the police regulations of towns and cities in the State."

The *title* from which these extracts are taken is styled in the constitution "*Judiciary department;*" it provides for courts and the distribution of judicial power, but *returning*-officers, or any like officers, are not mentioned in it, except by general terms to exclude them, and no judicial power is conferred upon them by it.

The act creating "the returning-board" undertakes to confer upon it very high and important judicial powers. In section 3, above set forth, it undertakes to empower and confer jurisdiction upon "the returning-board" to *investigate* touching riots, disturbances, &c., and to *decide* to what extent the same affected the election at any polling-place, and how, to adjudicate that the vote of the poll or voting-place shall be counted, or cast out wholly and rejected; to examine further testimony, to send for persons and papers, and to allow persons interested in such elections to come before them and assert and defend their rights. And by necessary implication, it is intended to confer all judicial power essential to determine all such questions as may come under their jurisdiction. But the constitution, as we have seen, expressly forbids that any judicial power shall be conferred upon such officers, and the statutory provision in question is therefore null and void.

It may be said that, if the returning-board and its acts are nullities, then the election must fail absolutely. This does not follow; but, if it should, this is no excuse or justification, and cannot put life into the statute when there is a plain and palpable violation of the constitution. But such consequences cannot follow. The *returning-officers* designated by the constitution must send the returns to the secretary of state, and the legislature may be duly organized according to the ordinary rules of general parliamentary law. These are well understood, and in some States they alone prevail, and in the House of Representatives they prevailed for a long while.

But granting, for the argument, that the returning-board had a constitutional existence, it plainly exceeded its powers in two material respects: 1. The statute regulating the manner of holding elections provides, (see section 2, above set out,) in reference to the returning-board, as follows: "The presiding officer shall at such meeting open, in the presence of the said returning-officers, the statements of *the commissioners of election*, and the said returning-officers shall, *from said statements*, canvass and compile the returns of the election in duplicate; one copy of such returns they shall file in the office of the secretary of state, and of one copy they shall make public proclamation, by printing in the official journal and such other newspapers as they may deem proper, declaring the names of all persons and officers voted for, the number of votes for each person, and the names of the persons who have been duly elected. The returns of the election thus made and promulgated shall be *prima-facie* evidence in all courts of justice and before all civil officers until set aside after contest according to law of the right of any person

named therein to hold and exercise the office to which he shall by such return be declared elected. The governor shall, within thirty days thereafter, issue commissions to all officers thus declared elected, who are required by law to be commissioned."

Now, this provision is very material; it is not merely directory, it is mandatory and essential. "*The statements of the commissioners of election*" are made by the officers at the polls, who held the election and knew exactly what votes were polled and under what circumstances; and, besides, these statements are sworn by the commissioners.

The fact is, that in ascertaining the result of the election the returning-board did not, from the statements of the commissioners of election, "canvass and compile the returns of the election;" but, on the contrary, they canvassed and compiled the returns from the *consolidated returns* made up by the *supervisors*, as provided in section 43 of the statute set out above. This conduct on the part of the returning-board was not only unlawful, but the testimony goes to show that it was done willfully; that in repeated instances the commissioners' returns did not correspond with the supervisor's consolidated returns; that the latter had been so made up falsely, and always in favor of the Republican candidates, to the extent of some thirty-five hundred votes.

2. Section 26, set out above, of the statute referred to, provides that in case of riot and other offenses specified, it shall be the duty of the commissioner or supervisor as specified, to make under oath a clear and full statement of all the facts connected with such unlawful acts, and the effect of the same upon the election, and such statement must be corroborated under oath by three respectable citizens, qualified electors of the parish; such statements must be sent to the returning-board, attached by wax or some adhesive substance to the returns of election. Section 3, set out above, of said act, prescribes the duties of the returning-board in cases where such affidavits shall accompany returns sent to them.

It will be seen that in one contingency they must not disturb the return, but count it; in another contingency, they must reject it, and refuse to count it. Now, in plain violation of this statute in the respect last mentioned, the returning-board in repeated instances, and after they had examined the returns and saw how results could be affected to suit their wishes and interests, received affidavits alleging such offenses in various parishes and voting-places, which affidavits were not made by supervisors or commissioners of election, but by other persons, and such affidavits did not accompany returns as required by law; and, pretending to act upon such affidavits, the returns were suppressed—not *rejected* as allowed by law in the contingency named—but suppressed in such way as to give Republican candidates majorities where they did not receive majorities in the parishes and at the voting-places named.

Mr. Kellogg admits in his statement (see it) that in the twelfth, eighteenth, and twenty-second senatorial districts the Democratic candidates had the majority of the votes cast at the polls, and as the commissioners' returns sent to the returning-board showed that in the election of ten members of the house of representatives designated, the returns of commissioners showed that the Democratic candidates were elected, and the returning-board so changed or suppressed the returns as to show that the Republican candidates were elected. Without reference to the fraudulent purpose of the returning-board in the respects just mentioned, it had no power thus to interfere with returns and alter or suppress them. If, under the constitution, it can exist at all, for any purpose, it must pursue strictly the powers conferred upon it; it has not general jurisdiction,

and cannot exercise powers like a court having general jurisdiction. It exceeded its powers, transcended its jurisdiction in the respects just mentioned; and such acts, apart from fraud, were null and void.

It cannot be truly said that the returning-board exceeded its jurisdiction and exercised important powers which the statute creating it did not purport to confer by inadvertence. On the contrary, the evidence shows conclusively that it assumed such powers in aid of the most flagrant frauds perpetrated by it. Indeed, its whole course of conduct, in pretending to ascertain the result of the election, manifests most strikingly the real purpose had in view in creating this strange and unnatural tribunal. It ascertained results of the election, and seeing them, with deliberation and advisedly, changed them at will; made new ones, and always in favor of the republican candidates. The returns from the parishes showed that Nicholls, the Democratic candidate for governor, had a majority over Packard, the Republican candidate for the same office, of 8,010 votes. By the exercise of the unlawful powers already pointed out, this majority was changed to a majority in favor of Packard of 3,426 votes.

The evidence shows, and it is admitted by Mr. Kellogg, that Perkins, Democrat, had a majority for senator in the twelfth senatorial district; he beat Weber, Republican, largely, but the returning-board gave the latter a certificate of election. Meredith, Democrat, had a majority over Hamlet, Republican, for the senate, for the eighteenth senatorial district; the returning-board gave Hamlet the certificate. Sandiford, Democrat, beat Blunt, Republican, for the senate, in the twenty-second senatorial district; the returning-board gave Blunt the certificate.

In Ouachita Parish, Breard and Taylor, Democrats, beat Barrington and Brewister, Republicans, for the house of representatives, as the parish returns show; but the returning-board gave the Republicans certificates of election. In East Baton Rouge Parish, Du Pré, Williams, and Young, Democrats, beat Bird, Holt, and Lane, Republicans, for the house of representatives; the returning-board gave the certificates of election to the Republicans. In La Fayette Parish, Marshall T. Martin, Democrat, beat Fernest Martin, Republican, (these were brothers,) for the house of representatives; the Republican received the certificate of election.

In West Feliciana Parish, McGee and Ryland, Democrats, beat Swazie and Early, Republicans, for the house of representatives. The Republicans, however, received certificates of election. In Morehouse Parish, Washburn and Hammond, Democrats, beat Shelton and Blair, Republicans, for the house of representatives, but the certificates of election were given to the Republicans. In De Soto Parish, Pitts and Means, Democrats, beat Long and Johnson, Republicans; the latter received certificates of election. The returning-board refused to count any returns from the parishes of Grant and East Feliciana; the returns were thrown out absolutely. The parish returns show that Lyons and Porter, Democrats, were elected from East Feliciana, and Randolph, Democrat, were elected from Grant Parish.

The parish returns show that the Democrats were elected in each instance above mentioned, and Mr. Kellogg admits that they received majorities. (See his statement made to the committee on 13th of November instant.) These changes were wrought by the returning-board, not in the exercise of the powers sought to be conferred upon them by statute and in the way prescribed, but by the exercise of arbitrary power, for which there was no color of legal sanction. The statute creating the board required that it should be composed of five persons

to be elected from all political parties. In fact there were but four members composing it, and all of them Republicans. The statute commanded that the vacancy should be filled by those members in office; they peremptorily refused to fill the vacancy.

In changing the results of the election as above stated, the sittings of the board were irregular; their movements were clandestine and collusive; they received illegal evidence to the end they might make pretext for suppressing polls; they received suggestions from persons not allowed by law to make them; and, after they and their political associaties saw that it was necessary to change results in their own interests, Mr. Spofford proposed to prove that Mr. Kellogg, then governor and a candidate for the United States Senatorship which he now claims, "joined in making illegal complaints, and inducing the board to consider them."

In view of the facts and circumstances developed by the testimony received by the committee, we do not hesitate—we feel constrained to declare—that the returning-board in Louisiana in pretending to ascertain and determine the result of the election in that State in November last, not only proceeded in many material respects without the sanction or even color of law, but perpetrated the most flagrant and shameless frauds, surpassing, if possible, any ever perpetrated by that tribunal before, and by such means undertook to change the actual result of that election so as to elect the Republican candidate for governor and give the Republicans a majority in the legislature. Their action was unlawful, willful, corrupt, concerted; and we cannot escape the conviction that it was, to say the least and best, connived at and encouraged by persons occupying important stations in and out of the State of Louisiana.

On the 1st day of January, A. D. 1877, as the constitution of Louisiana directs, the legislature designated as "the Nicholls legislature" assembled in Saint Patrick's Hall, in the city of New Orleans. The following extracts from the journal of the senate, found on pages 1 and 2, show the circumstances under which it met:

> The members of this senate, duly elected, proceeded at 12 m. on the 1st of January, 1877—being the first Monday of said month—to the State capitol of the State of Louisiana, to which they were refused admittance, and which they found in the possession of a large body of metropolitan police and armed men.
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> They were reliably informed of the presence of five companies of United States troops in an adjoining building, and that an entrance into the State capitol, by which the troops could be readily introduced into the senate chamber, had been especially made for that purpose. As the representatives of the people, this body considered it contrary to law and the spirit of free institutions to organize a general assembly of the State of Louisiana under a military guard, calculated to overawe and intimidate the members.
>
> For which reasons they repaired to Saint Patrick's Hall, in the city of New Orleans, where a permanent organization has been effected.—[Senate Journal, 1877, p. 2.]

Then follows on the next page, 3, signed by twenty senators, making a quorum:

> The undersigned holding-over senators, and senators-elect, do hereby solemnly protest against the occupation of the capitol of the State by an armed body of metropolitan police and other armed retainers, supported by a large body of Federal troops, in an adjacent building immediately accessible to the State-house by a passage purposely prepared with that object in view, which illegal, arbitrary, and revolutionary proceedings have been consummated by the order and under the sanction of the governor of the State, and the lieutenant-governor as presiding officer of the senate, for the purpose of overawing and controlling the deliberations of the general assembly, and preventing the access of the members duly elected, as well as the citizens of the State, to the meetings of their servants, save upon the written permission of the governor, &c.

There were in the senate at the organization on the day it assembled 20 senators. Of these, 9 were "holding-over senators," and their right

is not questioned; 8 new senators held certificates from the returning-board, and it is admitted that S. G. Perkins, senator from the twelfth district, received a majority, he beating Weber, the Republican candidate. It is likewise admitted that T. E. Meredith received a majority of the votes cast in the eighteenth senatorial district over Hamlet, the Republican candidate. And it is also admitted that J. W. Sandiford received a majority of the votes cast in the twenty-second senatorial district over Blunt, the Republican candidate. The parish returns show these facts, and they are admitted. (See Mr. Kellogg's statement, made to the committee on the 13th of November, 1877.)

It required 19 senators to make a quorum; 20 senators were present at, and participated in, the organization.

The following extracts from the journal of the house of representatives show the circumstances attending the organization of that body, (p. 1:)

HOUSE OF REPRESENTATIVES,
New Orleans, January 1, 1877.

At 12 o'clock m. the clerk of the house of representatives, in accordance with the law, took his place on the stand of the speaker of the house and stated that he had found the State-house barricaded and in the possession of the police and military of the State, placed there by order of the governor, and a militia officer in charge of the hall of the house of representatives; that he had demanded that such officers should withdraw, and the obstructions to the free ingress and egress to the State-house and hall of the house of representatives be removed; that he had been refused such demand, and would not organize the house of representatives under such circumstances, but would go elsewhere and organize that body. He then repaired to Saint Patrick's Hall, where the house was called to order.

Mr. Trezevant was the clerk who organized the house; he was clerk of the "old house" and the person authorized by law to organize the new one.

There were present and participating in the organization of the house 62 members, 61 being a quorum; of these held certificates from the returning-board. Of those present, the parish returns show, and it is admitted, (see Mr. Kellogg's statement above cited,) that D. A. Breard, jr., and J. G. Taylor, of Ouachita Parish, received majorities over Barrington and Brewster, Republicans; that J. Pitts and Joe T. Means, of De Soto Parish received majorities over Long and Johnston, Republicans; that Robert H. Ryland and J. B. McGehee, of West Feliciana, received majorities over Swazie and Early, Republicans; that W. W. Washburn and J. D. Hamond, of Morehouse Parish, received majorities over Shelton and Blair, Republicans; that James T. Williams, H. C. Young, and J. W. Dupré, of East Baton Rouge Parish, received majorities over Bird, Holt, and Lane, Republicans; that Marshall T. Martin, of La Fayette Parish, received a majority over Fernest Martin, Republican; that W. W. Carlos, of Webster Parish, received a majority over Heath, Republican; that W. B. Porter and T. B. Lyons, of East Feliciana, received all the votes cast; had no opponent; this vote the returning-board threw out; that E. G. Randolph, of Grant Parish, received a majority of all the votes cast; the vote of this parish the returning-board threw out.

It thus appears that "the Nicholls legislature," on the first day it assembled, had a quorum, and more than a quorum of members who had been elected at the polls, and in fact had the right to sit. But for the unlawful and fraudulent action of the returning-board, there could be no pretense for suggesting that the organization thus made was not strictly legal in all respects. Indeed, the organization was made in pursuance of the actual result of the election.

It is said, however, that whatever may have been the result of the

election at the polling-places throughout the State in the parishes, the legislature must be organized by those persons, and only those, who hold certificates of election from the returning-board, and that without reference to the conduct of that board, whether dishonest, fraudulent, or otherwise. In reply to this view we have endeavored to show, 1st, that the returning-board had no constitutional sanction as returning-officers of the election for governor and members of the legislature, and its acts were therefore void; 2d, that granting for argument's sake that it had a legal existence, it transcended its powers and jurisdiction, 1st, in failing to "canvass and compile" the returns of the *commissioners of election*, instead of the consolidated returns sent to it by the supervisors of election; and 2d, in that it received suggestions after seeing the returns and knowing the result, as to violence, disorders, &c., otherwise than as the law allowed. And the testimony makes the dishonest purpose and fraudulent conduct of the returning-board in changing results manifest.

There is, however, another answer. The Senate, in *Spencer's case*, after much debate decided that when there are two rival bodies of men in a State, each claiming to be the lawful legislature, it is competent to look behind the certificate of election and see who was in fact elected at the polls. This is a recent decision, and it was sanctioned by the vote of every Republican Senator who voted on the question. We do not stop here to question the soundness of this decision; it was made by a Republican Senate and in favor of a Republican Senator. We cite the following extract from the report of the Committee on Privileges and Elections in that case. The committee say:

> When we consider that all the forms prescribed by law for canvassing and certifying an election, and for the organization of the two houses, are designed to secure to the persons actually elected the right to act in the offices to which in fact they have been elected, it would be sacrificing the end to the means were the Senate to adhere to the mere form, and thus defeat the end which the forms were intended to secure.
>
> The persons in the two bodies claiming to be the senate and house of representatives who voted for Spencer constituted a quorum of both houses of the members actually elected; the persons in the state-house legislature who voted for Sykes, did not constitute a quorum of the two houses duly elected, but a quorum of persons certified to have been elected to the two houses.

The legislature, so organized, on the 2d day of January, 1876, canvassed the returns for governor, and declared Francis T. Nicholls elected, and on the 8th day of the same month he took the oath of office prescribed by law, and has ever since that time exercised the office of governor.

On the 24th day of April, 1877, the legislature elected the contestant, Mr. Spofford, to be a Senator in the United States Senate for six years from the 4th of March, 1877, having voted in joint assembly at least once each legislative day since the 10th of January, 1877. Each house took a vote on the 9th. The whole number of votes cast in that election was 153. Mr. Spofford received 140 votes. There were but three members of the legislature absent at the time. Of the members thus voting, 51 had been in "the Packard legislature" at the time Mr. Kellogg claims to have been elected, and voted for him. At the time Mr. Spofford was elected there was only "the Nicholls legislature" in the State, and there was no opposing or rival body.

All the acts passed by this legislature are duly published and recognized as the statutes of Louisiana. They are recognized by all the coordinate branches of the State government and by the whole people, and by the courts of the United States sitting in that State. The first

act passed by this legislature was approved by Governor Nicholls on the 8th of January, 1877, the day he went into office.

The body of men which claimed to be the legislature of Louisiana, and commonly called "the Packard legislature," assembled in the state-house, in New Orleans, on the 1st day of January, 1877. The house was barricaded and surrounded by bodies of metropolitan police, and several companies of United States troops were kept in readiness for action in the neighborhood of the state-house. There were in the senate branch of this legislature eight "holding-over" senators and eleven persons claiming to be senators holding certificates of election from the returning-board. These persons were Messrs. Blunt, Bryant, Case, Demas, Hamlet, Hooper, Sutton, Stamps, Wakefield, Wheeler, and Weber—eleven in all. These altogether make nineteen, a quorum, if they had all been elected: but Blunt, Hamlet, and Weber were defeated candidates; this the parish returns show and the fact is admitted. So that, in fact, there were in this senate but sixteen senators entitled to sit in a lawful legislature. One of these (Hamlet) having departed, left them without even a nominal quorum. Then Mr. Steven, a "holding-over" senator, sitting in "The Nicholls legislature," happened to be in the state-house on business, and the sergeant-at-arms of the Packard legislature seized and took him into the senate chamber to try and restore their nominal quorum. He was taken by force, and against his will and protest, and he did not participate in anything done. The seizure of Mr. Steven was a disgraceful proceeding, and the object had in view was to make a nominal quorum in order to admit as senators, upon a feigned contest, Baker and Kelso, two candidates who were defeated at the polls, and who did not even hold certificates of election from the returning-board. Steven did not vote, refused to participate, and without him there was no quorum present when Kelso and Baker were admitted.

Mr. Steven gives the following account of his seizure. He says:

On January 1st, 1877, I was one of the holding-over senators who formed the senate of the State of Louisiana, convened on that day in Saint Patrick's Hall in the city of New Orleans.

I was one of the committee of three appointed by the chair to inform Governor Kellogg that the senate was duly organized, and ready to receive any communication he might have to make, &c., &c. The other members of the committee were Mr. Garland of Saint Landry, and Mr. Boatner of Catahoula, both of whom were elected in 1876. The committee proceeded to the Saint Louis Hotel, were admitted to Governor Kellogg's office, and delivered to him in person the message with which they were charged. Upon leaving Governor Kellogg's office, I was stopped by two or three persons, who stated that they were sergeants-at-arms of the senate, and that I must accompany them to the senate chamber. I stated that the senate of the State had met in Saint Patrick's Hall on that day and had adjourned until the following day; therefore I refused to accompany them, and refused to submit to arrest.

I was thereupon seized by two or more of these parties and pushed and dragged in the direction of the senate-chamber, I resisting at every step. In this manner we reached the outside bar of the senate, where, by getting my feet against the railing, I was enabled for a few moments to make a more effectual resistance. I was finally forced to the bar of the senate. I addressed myself to the president, (Lieutenant-Governor Antoine,) who was in the chair, stating the circumstances which led to my arrest, protesting against the arrest, and demanding that I be permitted to withdraw. The president stated that I could only be permitted to withdraw by unanimous consent of the senate, which was refused. At this juncture Governor Kellogg came in through a door immediately in the rear of the president's desk. I appealed to him as commander-in-chief of the forces occupying the building to release me, as I considered my arrest as equivalent to a violation of a flag of truce.

He stated he was very sorry, &c., but as the senate had me in custody he could not interfere. I then made an attempt to go out, but was seized by several persons and forced back. I took a chair and sat down with my back to the president, at the end of the center aisle. The roll was then called, my name repeated probably a dozen or

more times; I made no response nor gave recognition in any way, shape, or manner whatever. When the roll was called on the seating of Baker and Kelso I made no answer, nor gave sign or motion of any kind whatever.

WILL STEVEN.

There was not at any time a lawful senate.

In the Packard house of representatives there were at no time more than 68 persons present claiming to be members. Eleven of these, including Brown, of Vernon Parish, as has already appeared, were defeated at the polls, so the parish returns show, and Mr. Kellogg admits that their Democratic opponents had majorities of the votes cast. This leaves the House without a quorum of members actually elected. Mr. Kellogg, therefore, did not receive a majority of the members elected to the legislature.

The evidence shows that but for the presence of the United States troops the so-called "Packard legislature" would never have assembled, and never would have set up any claim to be a legislature; but for the presence of troops it would not have continued to exist for one hour; it never for one moment existed as a free legislative body; it was the creature of fraud and force, and as soon as the latter disappeared it fled from the face of men; it felt and realized that it had no rightful existence, and hence its friends and foes alike repudiated it. From the beginning it was a sham, a pretense, and a fraud; it passed no act, it did nothing that is recognized as law by any of the authorities in Louisiana; it did no act for which any authority claims validity, except the pretended election of the contestant, Mr. Kellogg. This is the only act it did that claims recognition, and it remains to be seen if the Senate of the United States alone will recognize and accept this single fraudulent act of a pretended legislature which the State and people of Louisiana utterly repudiate.

Treachery and fraud mark every lineament of the so-called "Packard legislature" from its incipiency, and the Senate cannot escape seeing this But apart from fraud, where there are two rival bodies of men in a State, each claiming in good faith to be the lawful legislature, and each contests the right of the other from the beginning of their existence, and such contest is continued without intermission until one prevails and absorbs the other, so that the latter completely disappears, and all the co-ordinate branches, and all the authorities, and the great mass of the people of the State, and the President and courts of the United States, recognize the prevailing body as the lawful legislature, and all its acts passed from its beginning as laws of the State, and recognize no single act of the body so absorbed and totally disappearing, can the Senate of the United States, many months after it has so completely disappeared, recognize the body thus disappearing as the legislature of the State, by admitting to the Senate as a Senator a person who claims to have been elected by such a body of men?

The statement of the proposition irresistibly suggests the answer—it cannot. The Senate may have the physical power to do so—it has not the right to do so—it can only do so by the arbitrary exercise of lawless, despotic power. Such an act on the part of the Senate could only be regarded as a defiance of the authority, right, and will of the State and an insult to its dignity; it would shock the moral sense of the American people, and afford cause for profound distrust and alarm for the safety of our system of government.

The misrule and public disorders which have afflicted the State and people of Louisiana, seem to have passed away. The settlement of differences and a new administration of government resulting upon

the election in November last restored peace, good order, and a wholesome government.

That State and that people have settled their political contests and strifes which have annoyed and distressed the whole country. The Senate ought not, we trust it will not, disturb that settlement and revive bitter controversies. On the contrary, we trust it will, as in law and right it must do, accept and ratify that settlement by admitting the contestant, Mr. Spofford. His credentials, in all respects, comply with requirements of law, and he is well entitled to sit as Senator.

ELI SAULSBURY.
A. S. MERRIMON.
BENJ. H. HILL.

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45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 17.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 26, 1877.—Ordered to be printed.

Mr. HOAR, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of the New Orleans Gas-Light Company, praying that certain moneys now in the Treasury of the United States may be paid over to them, respectfully report:

In the year 1861 petitioners were a corporation, domiciled and doing business in New Orleans, in a State then in rebellion, and in territory under the actual jurisdiction and control of the so-called Confederate States. The corporation was indebted to Code, Hopper & Grutz, a firm resident in Philadelphia, in the sum of $1,967.12, and to sundry northern stockholders in divers sums, being dividends, which with the debt aforesaid made up the aggregate of $18,393.62. Proceedings were instituted in a court established by Confederate authority to sequester these sums for the use of the Confederacy as debts due to public enemies, and on the 16th November, 1861, judgment was rendered ordering the petitioners to pay over said sum to George W. Ward, receiver of the Confederate States, "and that the same remain sequestered in his hands." This order was complied with, and on December 11, 1861, petitioners' treasurer paid said Ward, receiver, by two checks on the Merchants' Bank, the sums of $1,967.12 and $7,240.50, and on January 25, 1862, by a third check on the same bank, the sum of $9,186, making in the aggregate $18,393.62. Ward gave his receipt for these sums, signed "Geo. W. Ward, C. S., receiver." He deposited said checks in the Citizens' Bank of Louisiana, where he had other deposits. The deposits were made in his name as receiver, and amounted in all to the sum of $89,168.65.

After the capture of New Orleans by the forces of the United States, a general order was issued, bearing date June 5, 1862, requiring every person having in his possession, or subject to his control, any property, of any kind or description soever, of the so-called Confederate States, under a penalty, to give full information of the same in writing. In obedience to this order the president of the Citizens' Bank disclosed the existence of deposits standing in the names of five different persons, as Confederate States receivers, amounting in all to the sum of $213,355.89, and including $72,084.90 standing to the credit of said Ward.

June 19, 1862, General Butler, then commanding at New Orleans, forwarded to the Secretary of the Treasury a document entitled "Sched-

ule of amounts received from several banks in New Orleans due Confederate States." In this schedule were the following items with others:

From Citizens' Bank	$215,820 89

Made up as follows, to wit:

Special account due Confederate States treasurer	$12,465 00
Confederate States receivers' accounts	178,897 50
Confederate States quartermaster and commissary account	24,458 39
	215,820 89

The whole schedule amounted to $245,760.10. A draft on New York of Citizens' Bank, on Bank of North America, for $215,820.89, payable at five days' sight; Jacob Barker's check on Park Bank, New York, for $2,500; Navy bill on Gideon Welles, Secretary, by William H. Higbee, paymaster, dated June 19, 1862, for $12,000, and draft of assistant quartermaster on assistant treasurer of the United States for $15,439.21, all payable in Treasury notes, were remitted by General Butler to the Treasury, making the amount of the schedule aforesaid. This amount was covered into the Treasury June 30, 1868.

There is a discrepancy, not explained, between the amount of $213,355.80, disclosed by the president of the bank as amount of funds deposited by the receivers, and the sum of $178,897.50, accounted for by the commanding general. This discrepancy is only material as bearing upon one of the questions upon which, in the view of your committee, the case turns, as will hereafter appear.

From a document printed and furnished to the committee by the petitioners' counsel, purporting to be a copy of the ledger account of G. W. Ward, receiver, with the Citizens' Bank of Louisiana, it appears that Ward, between the date of the payment to him by the petitioners of the first sum above stated, which was December 11, 1861, and the date of the payment by the bank, under the order of General Butler, drew out by checks the sum of $17,453.45, of which $14,904.75 were drawn out by him after the payment by petitioners to him of the second sum of $9,386 on January 25, 1862.

By order of the general commanding, and as the law would have compelled them without such order, the petitioners have paid to their northern creditor and stockholders the debt and dividends confiscated as aforesaid. They now claim that the fund illegally taken from them is in the Treasury of the United States; that it can be identified, and ought in justice and equity to be restored to them. The history of their claim, which it is not necessary to recite, clearly shows that they have been guilty of no laches in its prosecution. The case then presents the interesting questions, first, whether petitioners have satisfactorily proved the identity of the fund which they were compelled to pay over to the Confederate authorities with that received by the Treasury of the United States; and, second, whether a sum of money captured from the Confederate government by the military forces of the United States and paid by them into the Treasury ought to be held for the benefit of such citizens or corporations who were domiciled in the territory in rebellion as may be able to show that the fund so captured had been previously exacted from them.

First, in regard to the identity of the fund. The checks drawn by the petitioners in favor of Ward upon the Merchants' Bank were doubtless paid by that bank to the Citizens' Bank, in which he deposited them. Whether they were paid in Confederate money, balancing credits between the banks, or in their own bills, or otherwise, does not appear. The sum so paid was mingled with a large fund standing in the name

of Ward, receiver, and an amount nearly equal to that paid by the petitioners to Ward drawn out by him in small sums. The Citizens' Bank having deposited with them, according to the admission of their president, in the names of the first receivers, $213,335.80, paid over only $178.897.50; or, if they paid over the whole, only the latter amount was transmitted to the Treasury, partly in drafts on New York and partly in drafts on the Navy Department and on the Treasury. How the remainder of the amounts in the hands of Ward and the other receivers was made up, or what the equities of the persons from whom it was obtained to reimbursement may be, whether prior, equal, or inferior to those of petitioners, does not appear. This is not the case of a bale of cotton, or even of a bag of gold or roll of bills, which can be identified by earmarks. The fund has lost its identity, and has repeatedly changed its character.

Before, however, rejecting petitioners' claim on this ground alone we should feel inclined to consider further, and with great care, the propriety of providing for a proceeding in the Court of Claims or elsewhere, in which all parties in interest might have opportunity to prove their exact relation to this fund and be heard upon the question of their equitable claims. The moneys exacted from the petitioner have never passed into private hands, nor been mingled with the property of any person who claimed them as his own, but have always been held upon a trust. Under these circumstances a court of equity would probably apply a different rule from that which prevails at law, and suffer a true owner to establish his claim against funds which had passed into the hands of successive trustees although they undertook to hold for different *cestuis que trust*. The government in dealing with its citizens might well be expected to govern itself by as liberal a rule as prevails in its own courts of equity.

But the case must turn, in our judgment, upon a more important question of much larger relations and consequences. The decree of the Confederate court would of course have no validity whatever to change the ownership of the property of persons not within its actual jurisdiction, and it may be conceded for the purposes of this argument that it was equally without authority to conclude the title of the petitioners. But its mandate constituted an act of force, illegal but actually taking effect, by which the property of the petitioners was in fact transferred to the possession of the Confederacy, and became part of its resources actually devoted to its own maintenance and that of the war which it was waging against the United States.

The Confederate government collected moneys from persons within its control by taxes, forced loans, imposts, duties upon imports, license-fees, and all other modes which could be devised by a government straining every nerve in a struggle for its existence. Can it be claimed that when the United States suppressed the rebellion, or during the war captured the whole or part of the Confederate treasury, that it held the treasure so obtained as a trust-fund to reimburse the persons from whose forced contributions it was made up? It appears from the proof in this case that the commanding general seized upon $219,090.94 in this same Citizens' Bank, deposited there to the credit of the treasurer of the Confederate States, and transmitted its proceeds to Washington. This was quite probably the proceed of some tax or forced loan or other compulsory process as illegal, as the event proved, as that which compelled the petitioners to pay over the fund in question. If the rebellion had been successful the lawfulness of all these things would have been established as against all mankind. The right to do these things

lawfully was the right for which the war was waged. The establishment of that right and the establishment of the Confederate government is the same thing. Before its capture New Orleans was enemy's territory, and every person domiciled there, whatever his individual sentiments, and every corporation domiciled there, whatever the purposes or designs of its managers, were at war with the United States, and all their resources were practically at the disposal of the authority of the public enemy. The force which compelled the payment of this money into the Confederate treasury to be held and used for purposes hostile to the United States was a force to which petitioners were themselves parties, and to which, whatever their own desires, they are by reason of their domicile, conclusively deemed to be consenting. If a ship owned by this gas company and freighted with coal for use in its manufacture had been captured at sea, it would have been condemned as lawful prize as enemy's property. It is true that by the law of war, as modified by the practice of civilized nations in modern times, the private property of enemy's subjects on land is not ordinarily subject of capture. But private property of the enemy's subject, in the hands of his government, actually held for and devoted to its hostile purpose, is lawful subject of capture, and when captured is the lawful prize of the captor government.

Whatever differences in usage or principle may exist between the cases of captures by sea and by land of private property, we can perceive no valid distinction between captures by sea and captures by land of property actually designed and fitted for hostile use or to aid the enemy in carrying on the war. Such property, even when belonging to a neutral, is liable to capture and cannot be reclaimed. In this class enter ships and provisions actually designed for the use of the hostile government; Grotius includes money. If money, the property of a neutral, on its way to the treasury of a hostile power, may be captured at sea and become lawful prize, surely the funds actually in that treasury are lawful prize, and their seizure can give no right of reclamation to the owner who is a subject of the hostile power.

One further and very important observation ought to be made. The difficulty in which this corporation finds itself grows out of an attempt by the Confederacy to exercise the belligerent power of confiscating property of private persons, subjects of the government with which it was at war, found within its own territory. While this is an undoubted belligerent right, it is so contrary to modern usage that it is presumed to be contrary to the will of the government, in the absence of an express declaration to that effect. The courts will not condemn such property without an express injunction to do so, which in this country, as was decided at a very early day, must be by act of Congress. Brown *v.* United States, 8 Cranch, 110. The Confederate government saw fit to revive an early, harsh, and extreme right, contrary to the humane usage of modern times, and contrary to the usage of the nation with which it was at war, and of which those supporting it had formed part. There would seem to be no propriety in interfering by an exercise of the discretion of Congress to relieve persons who shared in the rebellion against the injurious consequences of this attempt.

The conclusion is that the claim should be disallowed.

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 18.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 26, 1877.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill (S. 346) referring the claim of Benjamin Holladay to the Court of Claims.]

The Committee on Claims, to whom was referred the memorial of Benjamin Holladay, praying compensation for spoliations by Indians on his property while carrying the United States mails, for property taken and used by United States troops for the benefit of the United States, and for damages and expenses incurred in changing his mail-route in compliance with the orders of the United States commanding officer, having had the same under consideration, submit the following report:

This memorial was presented in the Senate during the Forty-fourth Congress, and was referred to the Committee on Claims. It was considered by that committee, and on the 17th day of January, 1877, it was reported back to the Senate, accompanied by a written report. Your committee have gone carefully over all the papers in the case, which are voluminous, and we adopt the report made by Senate Committee on Claims to the Forty-fourth Congress, which is as follows:

The memorialist avers in his memorial, in brief, that he is a citizen of the United States; that from the year A. D. 1860 until the 13th day of November, A. D. 1866, he was contractor for the transportation of the United States mails on what was then known as the Overland Mail Route, between the Missouri River and Salt Lake City, in the Territory of Utah; that in the performance of his service in the transportation of the United States mails, amounting during much of said time to more than fifty tons of mail-matter per quarter, he employed 110 coaches, 1,750 horses and mules, and upward of 450 men; that he was, at great expense, compelled to erect buildings, houses, stables, stations, and shelters for the convenience, shelter, and protection of his men and animals along said mail-route and its tributaries; and also to provide, at great expense of cost and transportation, large supplies of food, forage, and wood.

It is further alleged that, while so engaged in the discharge of his duties as such contractor, his service was interfered with, impeded, and obstructed by large and numerous bands of Indians, who murdered his agents, servants, and employés, captured and carried away large numbers of his horses and mules, burned his store-houses, station-houses, barns, stables, large quantities of forage, provisions, wagons, harness, clothing, and other property which had been provided by him for properly conducting the business of the transportation of the United States mails over said route, and which he was compelled to replace at great expense and with tedious delays and damage in order to enable him to continue properly to perform such postal service for the United States Government.

The memorialist further complains that after he had erected his buildings, as hereinbefore stated, and secured his supplies for men and horses, &c., at his several stations along said mail-route, he was compelled, in consequence of the Indian depredations, by military orders, to abandon a large number of his buildings and stations, and a very considerable amount of his supplies, and to change the line of his mail-route to parallel lines far distant from the first route; that he was also compelled, on making such

changes, to erect new buildings, stations, houses, barns, &c., with constantly increasing expenses and losses.

The memorialist further avers that while so engaged in the transportation of the mails, large quantities of his hay, grain, and other supplies were taken by the military authorities of the United States, and by them carried away for the use of the government troops and the government agents, and by them used for the benefit of the Government of the United States, and for which no compensation has ever been made to memorialist.

The memorialist states as a reason for delay in urging his claim for compensation for his losses, as stated, that his claims were presented to Congress in A. D. 1866; that on the 24th day of January of that year his petition for redress was referred to a committee of the House of Representatives, and that subsequently, by a disagreement of the two houses of Congress as to the measure of relief to be granted, the bill failed by the adjournment of Congress.

Your committee, on a careful consideration of the testimony, find that the memorialist was a mail-contractor, and did carry the United States mails on what was then known as the Overland Route from the Missouri River to Salt Lake City, Utah Territory, from the ——— day of September, A. D. 1861, until the 13th day of November, A. D. 1866, continuously; that in the performance of this service he employed 110 coaches, over 1,700 horses and mules, and about 450 men; that he was at great expense in erecting buildings, houses, stables, stations, and shelters for the convenience, shelter, and protection of his men and animals, and in supplying at his various stations food, forage, and wood; that the length of said route was about 1,200 miles, and lay almost exclusively through the Indian country.

Your committee further find that during said period, and while memorialist was so engaged in transporting said United States mails, his service was interfered with and obstructed by large and hostile bands of Indians, who murdered his agents, servants, and employès, captured and carried away large numbers of his horses and mules, provisions, stores, wagons, and other property of great value, and who burned large numbers of his store-houses, barns, stables, and large quantities of forage, provisions, wagons, harness, clothing, and other property, and which said Benjamin Holladay was at great cost and expense in replacing; that said depredations were continued during the greater portion of the time that said Holladay was so engaged in transporting said mails on said route, and the effect of which was to prevent travel over said line, and to render it a task of constant peril to the men engaged in running said coaches and in transporting said mails; that the evidence as to the amount and value of the property so taken and appropriated, being in the form of *ex-parte* affidavits, is to a great extent unsatisfactory; and your committee, although satisfied that a large amount of valuable property belonging to memorialist was so taken, do not feel justified in attempting to determine with any degree of accuracy the amount or value thereof.

Your committee further find from the testimony that, during the time said Indian depredations were being carried on, the Government of the United States, through the military authorities, undertook to give protection to said memorialist, and to guard his said mail-route and property from further interference on the part of said Indians; and, in order to give such protection, said Holladay was, by military orders, compelled to change the line of his said mail-route to parallel lines far distant from the first route; that on the 2d day of December, A. D. 1864, Col. J. M. Chivington, then in command of that military district, issued the following military order:

HEADQUARTERS DISTRICT OF COLORADO,
Denver, December 2, 1864.

SIR: I am directed to furnish your line complete protection against hostile Indians, which I can only do by its removal from the Platte to the Cut-off route. As it now runs, I am compelled to protect two lines instead of one. You will therefore remove your stock to the Cut-off route, which will enable me to use troops retained for an active campaign against these disturbers of public safety.

I am, sir, with respect, your obedient servant,

J. M. CHIVINGTON,
Colonel, Commanding District.

BENJAMIN HOLLADAY, Esq.,
Proprietor Overland Stage Line.

Your committee find that, in pursuance of this military order, said Benjamin Holladay removed his stage-line from the route it was then on, from Junction City to sixty miles northwest from Denver City, over and on to an entire new route, many miles—an average of thirty miles—distant from the old route, and for a distance in length of about 140 miles; that in making this change of route in accordance with said military order, said Holladay was put to great cost and expense in removing barns, houses, stations, corrals, stock, provisions, and other property, and was necessarily compelled to abandon other houses, stations, barns, and other property of value that could not be moved to the new route.

Your committee further find that large quantities of hay, grain, and other supplies, belonging to said memorialist, were taken by the military authorities under direction of military commanders of the United States forces, and by them used in the subsistence of government troops then in service on the plains along the line of said overland mail-route, and for which no compensation was ever made; that the amount and value, respectively, of property lost and abandoned by reason of said military order, and of property so taken and used by the military authorities as a necessity for the use of the government troops, and the cost and expense of changing said mail-route, do not definitely appear from the evidence in the case.

To summarize: Your committee find that the grounds of relief presented by the memorial and evidence are of the three following classes:

1st. For property taken and destroyed by hostile bands of Indians, which property belonged to memorialist, and was, at the time the same was so taken and destroyed, being used by him as a mail-contractor in the business of the transportation of the United States mails through an Indian country, and at a time during which the Government of the United States, through its agents, the President and the Postmaster-General, had given assurances of protection against Indian depredations, and against which depredations the Government of the United States attempted, so far as in its power, through its military arm to protect memorialist;

2d. For property abandoned and lost necessarily, and the cost and expense of transferring other property by reason and in pursuance of a military order of the United States Government; and

3d. For the value of property, hay, grain, and other supplies, belonging to memorialist, taken and used by the military authorities of the United States for the use and benefit of the Government of the United States.

As to the liability of the Government to make just compensation to the memorialist for the claims specified in the two classes last designated, there can, in the judgment of your committee, be no room for controversy or doubt. And your committee, passing over these, would inquire into the more debatable proposition as to the liability of the government in equity and good conscience on the facts presented in the class first specified. And your committee, in determining this question, have carefully considered it, not only on principle and in the light of that well-established relation existing between the government and its contractors engaged in the transportation of the mails, but also in the light of legislative precedents. The question, while it bears a certain degree of sameness to the liability of the General Government to the individual citizen not engaged in performing government service, to make compensation for damages resulting from Indian depredations, is not that case, but, on the contrary, quite another and different one. And the fact that the latter might be decided in the negative does not by any means control rightfully the decision of the case at bar. While, should the case as to the right of the private citizen to recover in such contingency be decided in the affirmative, (and upon that question the committee do not pass,) *a fortiori* may the question as to the duty of the government to afford protection to its mail-contractors engaged in the business of transportation of the United States mails through an Indian country, and to make just compensation on failure to give such protection, be decided in the same way. The case under consideration, furthermore, is peculiarly exceptional, from the fact that protection was repeatedly affirmatively guaranteed by the government, and from other circumstances herein stated, and its determination either way should not be regarded as a rule applicable to mail-contractors generally, or a precedent for cases where these exceptional circumstances do not exist. Without pausing, therefore, to inquire into the former proposition as one foreign to, and the decision of which is not necessarily involved in, the present investigation, and bearing steadily in mind the distinction between the two, your committee come directly to the consideration of the question as to the liability of the government, in equity and good conscience, for damages resulting to a person engaged in transporting the United States mails through the Indian country of the United States, by the appropriation or destruction by force of his property by him being used in said government business, by hostile bands of Indians, under the exceptional circumstances of this case.

It must be conceded that the regular transportation of United States mails with "celerity, certainty, and security," is a matter of vital importance to the business, political and social interests, and commercial prosperity of the whole people. And, to accomplish this, the good faith and fidelity of the contractor, united with every reasonable and necessary protection upon the part of the government, whereby all interruptions to the line by obstruction to the route would be prevented, would seem to be necessary; and only by the strict performance of such reciprocal obligations upon the part of government and contractor can this important branch of the government service be faithfully performed. And acting upon this identical idea, the government has, since the days of the Confederation, legislated by the enactment of criminal statutes for the protection of mail-routes and against interruption of United States mails. And to-day it is a criminal offense in the United States to rob the United States mails by threatening the carrier. Before the United States mails can

be transported between two or more points in our country, a post-route must, by the authority of Congress, be established between those points. This is the first indispensable step to the transmission of the mails between such points. And one principal reason why this is so is in order that the jurisdiction of Congress to protect the mails from interruption and to afford protection to the carrier on the route may be complete. Yet, while this is true in all ordinary cases, the liability of both contractor and government should be determined by the terms of the written contract. In the present case, a mail-route was established between the border line of the eastern settlements and those pioneer people who, not content with the slow progress of simply moving the frontier line west by solid and self-protecting settlements, forced their way in advance across the great American desert, and over and through the passes of the Rocky Mountains, and built the foundations of empire on the coast line of the Pacific. Mail communication became a necessity between the East and the extreme West, and the track of that communication lay, of necessity, across a wilderness inhabited by hostile and savage men. To establish such a mail-route and force the mails over it was an undertaking upon the part of the government that challenges a parallel in the history of mail transportation, commands admiration, and is highly illustrative and characteristic of the indomitable enterprise and unyielding energy of the American people; for no government in the world ever before established weekly, much less daily, lines of mail-service over hundreds and thousands of miles of waste desert and unsettled country, even in the absence of dangers incident to a country infested with hostile bands of depredatory Indians. The government availed itself of the private enterprise of its citizen, the memorialist, to perform this hazardous service, and the obligation, in equity and good conscience, to protect him and his property when Indian hostilities commenced, which was subsequent to the commencement of this service, was at once acknowledged by the government. That the government so understood it at the time is plainly evident from the fact that it did attempt to afford such protection by placing a portion of the United States Army along the line of said route, and by changing a portion of said line by military order, to the end that more complete protection might be afforded. If the government failed in its protection, it was not the fault of him who undertook its business; and if it did fail without any lack of diligence or good faith upon the part of the contractor, and by reason of such failure the contractor suffered in the loss of his property, we are of the opinion that, under the exceptional circumstances of this case, the government should make that loss good. It should be borne in mind, moreover, that during most of the time covered by the depredations complained of, there were peculiar and pressing reasons why mail communication should be kept up between the Mississippi Valley and the Pacific States and Territories. Our country was engaged in what at times seemed almost a hopeless struggle for the preservation of its existence, a struggle, wherein not only the secession of Southern States became, so far as in their power to accomplish it, a fixed fact, but wherein the establishment of a Pacific confederacy was to many minds a more than probable consummation. Surrounded by these circumstances, with a hostile foe to both man and civilization scattered along the whole length of this route, it would have been sheer madness upon the part of any contractor to have attempted, in the absence of protection from the Federal Government, to continue to transport the United States mails across this almost trackless realm; and to presume that the Post-Office Department and the Government of the United States ever intended such a thing would be to suppose them capable of expecting impossibilities at the hands of their contractors, a thing unworthy of the private citizen, much more so that of a just and generous government. The fact that protection was in part given is in harmony with the idea just expressed, that the government understood it to be its duty to give protection. The importance, therefore, of maintaining this line of communication across our continent during this critical period of our nation's history, coupled with the fact of the utter impossibility to maintain it after Indian hostilities commenced, except either by a body-guard furnished by the government or by an enormous sacrifice upon the part of the contractor, would seem to imply an equitable obligation of the strongest possible character upon the part of the government to make just compensation for losses sustained by the contractor by reason of a failure to furnish full and adequate protection.

While, as has been said, the principle is not involved in this case, it may be said, in passing, that the obligation and duty of protecting citizens of the United States in their passage through Territories infested by hostile tribes of savages, or settling permanently in said Territories, have been frequently conceded by the government. Congress has, year after year, appropriated public money and kept an army in the field, or ready to take the field for this purpose. Acts of indemnity by the government for losses by private citizens, and by citizens engaged in the government service, by depredations of hostile Indians, have been very frequent. In the case of Magraw, mail-contractor from July, A. D. 1854, to August, 1856, on route from Independence, Mo., to Salt Lake, (almost this identical route,) the government gave him, by special enactment, $17,750, for losses in stock, stations, and supplies, through Indian depredations

during the two years he was engaged in transporting the United States mails on said route. As early as A. D. 1836, Saltmarsh, Avery & Co., mail-contractors in Georgia and Alabama, lost their property by the Creek Indians. The government, by special enactment, paid them for their losses $9,779, (see Statutes at Large, vol. 6, p. 882.) In the case of Livingston, Kinkead & Co , merchants, of Salt Lake City, one of the firm, *not in the Government employ*, but traveling on the business of the firm as a passenger merely in one of Magraw's coaches, had in his possession $10,000 in coin ; the Indians attacked the coach and robbed the passengers ; among other things they robbed this passenger of the $10,000. The government, by special act of Congress, paid this amount to the firm to reimburse them for the loss. The case just quoted is an instance where the government recognize d its obligation to protect the property of a passenger on a mail-coach by reimbursing him for a loss resulting from a failure to protect him, which is carrying the doctrine of protection much further than is claimed by the memorialist in this instance. Another case somewhat analogous is that of Moses D. Hogan, (Statutes at Large, vol. 10, p. 843.) Hogan contracted to deliver a certain number of cattle for the government service at Fort Sterling. The Indians stole and carried away a portion of the cattle; and Congress, by a special enactment, indemnified Hogan for the loss. Numerous other precedents might be quoted to show that Congress has frequently recognized the existence of an obligation on the part of the government, under exceptional and hard cases, to indemnify government contractors for losses sustained by reason of Indian depredations.

Your committee, therefore, on both principle and precedent, feel constrained, under the peculiar and exceptional circumstances presented by this case, to recognize the existence of an obligation on the part of the government to indemnify the memorialist for whatever loss he sustained through no fault of his own, by reason of Indian depredations, while engaged in transporting said United States mail over said overland route between the Missouri River and Salt Lake, between the —— day of September, A. D. 1861, and November 13, A. D. 1866. But your committee are not willing that the value and amount of property taken, or the loss suffered by the memorialist, should be determined on *ex-parte* affidavits alone; but believing that it is a case wherein the rights of the government can only be properly protected by an exercise of the privilege of cross-examination, and by a thorough investigation in a court of competent jurisdiction, wherein the government shall be represented by counsel, and wherein not only the right of cross-examining the claimant's witnesses, but also to call witnesses of its own, shall exist, your committee decline to grant the prayer of memorialist, and refuse to recommend a direct appropriation ; but, for the reasons herein stated, would refer the claims of memorialist to the Court of Claims for adjustment; and for such purpose report back the accompanying bill and recommend its passage, with, however, the distinct statement that nothing herein stated shall be regarded as a rule or precedent fixing the liability of the government to mail-contractors in any case wherein the peculiar circumstances of this case as herein presented are absent.

O

45TH CONGRESS, 1st Session. } SENATE. { REPORT No. 19.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 26, 1877.—Ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 127, granting a pension to Silas B. Decker.]

The Committee on Pensions, to whom was referred the bill (S. 127) granting a pension to Silas B. Decker, late contract-nurse, United States Army, have had the same under consideration, and submit the following report:

Existing laws debarring the petitioner, the committee deem it unwise to enact a special law covering the case. They submit an adverse report, and ask to be discharged from further consideration of the bill.

CONGRESS, } SENATE. { REPORT
Session. } { No. 20.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 30, 1877.—Ordered to be printed.

cMILLAN, from the Committee on Claims, submitted the following

REPORT:

o accompany bill (S. 10) for the relief of James Glover, of Pennsylvania.]

'ommittee on Claims, to which was referred the petition of James ver, praying compensation for the destruction of certain property ed by him and situated in Catahoula Parish, in the State of Lou- ıa, present the following report:

ı claim was referred to the committee at the first session of the fourth Congress, and was considered by the committee; but no thereon was made to the Senate. Senator Cameron, in behalf ıinority of the committee, at that time prepared and submitted to ımmittee their views in the form of a report, which we adopt as port in this case.

petitioner is a citizen of Allegheny County, Pennsylvania.

he fall of 1857 he left his home in Westmoreland County, Penn- ıia, taking with him two sons and his son-in-law, and went to oula Parish, Louisiana, and purchased about three thousand acres ber-lands, near the town of Harrisburg, on the Washita River, in arish and State; that he erected on said lands a large, two-story mill-building, in which he set up steam-power grist-mill, saw-mill, g-mill, sash-factory, with all the requisite machinery and appur- ;es necessary to carry on large operations in the milling, lumber, ıilding business.

completed the erection of his mills and machinery in about en months, when he left all in charge of his sons, and returned to ıme and family in Pennsylvania. He corresponded with his sons .he breaking out of the war, but after that heard nothing from or m until his son Cornelius returned to Pennsylvania in 1863.

ly in the war the rebels erected a fort, called Fort Beauregard, about five miles of these mills.

the 1st of September, 1863, a body of Federal troops under com- of Colonel Mallery, of the Seventeenth Wisconsin Infantry, pro- l to these mills and destroyed them, with all their contents; also lumber, corn, and eighty-four bales of cotton, all being the prop- f petitioner.

petitioner estimates his loss at $72,565. The loyalty of the pe- ır is not questioned; his sons, who had charge of the mills and property, were also loyal.

ılready stated, Fort Beauregard was located but a short distance

from these mills. A considerable rebel force was concentrated at and occupied this fort.

About the 1st of September, 1863, an expedition under General Crocker was sent out from Natchez to capture this fort. The expedition was successful; the fort was captured and the rebel force dispersed.

After the capture of the fort and the flight of the enemy, General Crocker learned that petitioner's mills had been taken possession of and operated by the rebels; that they had been used to grind corn and manufacture lumber for the use of the rebel army, and that they could again be used for the support of the confederate cause.

The property was situated in an insurrectionary State, and was actually used for the support of the rebel cause. It was deemed necessary, by General Crocker, the officer in command of the expedition, to destroy petitioner's said property, and thus prevent it from again being used by the enemy.

Now let us see what rules of law govern this case.

As to the eleven States proclaimed to be in rebellion during the period of actual war, in general terms, it may be said that the United States, by the rules of international law, incurred no liability whatever for property taken, used, damaged, or destroyed therein, by government authority, so far as dictated by the necessary operations of the war. We deem this rule well settled by the most approved writers on the laws of war.

Halleck says:

> War makes legal enemies of all the individual members of the hostile states; it also extends to property, and gives to one belligerent the right to deprive the other of everything which might add to his strength and enable him to carry on hostilities (Halleck's International Law, 446.)
>
> A belligerent who makes himself master of the provinces, towns, public lands, buildings, &c., of an enemy, *has* a perfect right to their possession and use. (*Ibid.*, 457–460.)

In the case of United States vs. Paddelford, 9. Wal., 531, the Supreme Court said:

> The rights in private property are not disturbed by the capture of a district of country or a city or town until the captor signifies by some declaration or *act, and generally by actual seizure*, his determination to regard a particular description of property as not entitled to the immunity usually conceded in conformity with the humane maxims of the public laws.

Mr. Delano said, in a report made by him to the House of Representatives from the Committee of Claims January 18, 1866, (see House Report No. 10, 1st session 39th Congress:)

> I do not deem it necessary to go into an argument to prove that there is no responsibility resting on Congress to pay those damages that are the result of the necessary ravages of war.

The claim of Henry E. and Alfred Cox, being No. 229, decided by the Southern Claims Commission, was for a saw-mill and its motive-power, machinery, &c., destroyed by raiding parties from General Sherman's army near Meridian, Miss., in February, 1864. The expedition by which the mill was destroyed was sent out by General Sherman for the express purpose of destroying the confederate mills, supplies, railroads, and means of transportation.

The proofs showed that the saw-mill in question had been employed in the sawing of railroad-ties for the Confederate Government, and was available for this and similar purposes.

On the part of the defense it was claimed that the destruction was a lawful act of war.

The claim was disallowed unanimously by the commission.

The case of William Smyth, No. 333, decided by the commission, was a claim for an iron and brass foundery, machine-shop and machinery, fixtures, supplies, &c., for same, destroyed by General Sherman at Atlanta after the capture of that city and before his advance upon Savannah. The establishment had been employed in the manufacture of military supplies for the Confederate Government.

This claim was also disallowed by the commission.

Mr. Hale, one of the commissioners, in his report says: "A large number of claims was brought for cotton destroyed by the United States forces at various points in the insurrectionary States." In many of these cotton cases it was shown that the cotton was destroyed under express orders from the officers in command, and for the purpose of preventing it from falling into the hands of the enemy and of weakening the resources of the enemy. All of these claims, with a single exception, (and the facts of that case made it an exceptional one,) were disallowed.

The general rule to be deduced from the authorities, both the adjudged cases and standard writers on the laws of war is this, viz: That a belligerent may, lawfully, in an enemy's country, destroy any property, public or private, the possession or control of which may in any degree contribute to sustain the enemy and increase his ability to carry on the war.

The claimant's counsel in their brief filed in support of this claim lay stress upon the fact that the claimant was at all times a loyal man, and resided during the entire civil war in a loyal State. The rule seems to be that loyal citizens residing in the loyal States during the rebellion, but having property, real or personal, in the insurrectionary States, can by the rules of international law claim for it no immunity. Its local *situs* imparts to it the character and status of enemies' property. It may lawfully be used for military purposes, *or destroyed* if it will be useful to the enemy. (Lawrence's Wheaton, 565, 576; The Gray Jacket, 5 Wal., 342–364.)

Now, to recapitulate, the petitioner was a loyal citizen, and resided, during the entire civil war, in a loyal State. The property for which he claims compensation was in an insurrectionary State. It had been used, but not with his consent, nor with the consent of his agents, for the support of the Confederate cause, and might again be used, in various ways, to sustain the enemy and increase his ability to carry on the war. The Federal commander determined that in order to weaken the enemy petitioner's property ought to be destroyed, and by virtue of that discretion invested in him by the laws of war he caused it to be destroyed. Its destruction was a result of the necessary ravages of war, and being such, the government is under no obligation to compensate petitioner for his loss.

We therefore recommend that petitioner's claim be disallowed, and that the bill (S. 10) be indefinitely postponed, and that the Senate adopt this report.

O

45TH CONGRESS, 1st Session. } SENATE. { REPORT No. 21.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 30, 1877.—Ordered to be printed.

Mr. MCMILLAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill (S. 135) for the relief of Edwin Fairfax Gray]

The Committee on Claims, to whom was referred the bill (S. 135) for the relief of Edwin Fairfax Gray, have had the same under consideration, and respectfully report as follows:

This bill provides for the payment to Edwin Fairfax Gray, late a lieutenant in the Texan navy, the amount paid to officers of the same rank under the act of Congress approved March 3, 1857. The act of Congress referred to enacts: "That the surviving officers of the navy of the Republic of Texas, who were duly commissioned as such at the time of annexation, shall be entitled to the pay of officers of the like grades when waiting orders in the Navy of the United States, for five years from the time of said annexation; and a sum sufficient to make the payment is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the acceptance of the provisions of this act by any of the said officers shall be a full relinquishment and renunciation of all claim on his part to any further compensation on this behalf from the United States Government, and to any position in the Navy of the United States." (11 U. S. Stats. at Large, chap. iii, § 12, p. 248.)

A bill of the same character as the one under consideration, and for the same purpose, (S. 135,) was introduced at the first session of the Forty-fourth Congress, and was referred to this committee, who, having considered the same, at the same session submitted their report, in which it was recommended that the bill be indefinitely postponed. The report was placed upon the calendar, but was not acted upon by the Senate, the case not having been reached at either session of that Congress.

The report, after quoting the section of the act of Congress upon which the claim is based, says: "Was Edwin Fairfax Gray, the claimant, an officer of the navy of the Republic of Texas, duly commissioned as such at the time of annexation? The determination of this question settles the rights of the claimant."

The report then proceeds with a very full and clear statement of the evidence and facts in the case, and concludes that the evidence and facts before the committee are not sufficient to prove that claimant was a duly commissioned officer of the Texas navy at the time of annexation.

Upon the re-examination of the case, we are unable to discover any omission of evidence or fact in the former report, and are compelled to arrive at the same conclusion, namely, that the evidence and facts before the committee are not sufficient to prove that claimant was a duly commissioned officer of the Texas navy at the time of annexation.

But upon this hearing we are cited, on behalf of the claimant, to the act for the relief of John S. Dickson, late captain of paroled prisoners, (19 U. S. Stat. at Large, ch. 218, Private Laws, p. 466), and to the debate in the Senate upon the bill, (Cong. Record, Sen., July 11, 1876, vol. 4, part 5, 44th Cong., 1st sess., p. 4509,) as conclusive of this case.

We think the case referred to is not in point. Dickson was a sergeant of Company C, Eighteenth Regiment Wisconsin Volunteers, and was appointed captain of Company B of Wisconsin paroled prisoners of war, and as such served in the field against the Indians, being a command separate and distinct from his regiment, continuing to discharge such duties as captain for nine months and twenty days. (Cong. Record, *ib.*) The act of Congress referred to allowed him the pay of captain for the time he served as such, deducting the amount received by him as sergeant in Company C, Eighteenth Regiment Wisconsin Volunteers. In that case Dickson both while sergeant and captain was *in the service of the United States*, and while acting captain was in the field. Although not commissioned, and therefore not entitled under the general law to a captain's pay, his meritorious services in behalf of his country were the ground of the passage of the act.

In the case under consideration here Gray, the claimant, was not in the service of the United States at any time or in any capacity, and has no claim for services rendered to this government. The act of Congress under which he claims is very clear, and embraces only "surviving officers of the navy of the Republic of Texas, who were *duly commissioned as such* at the time of annexation." The claimant does not come within the act of Congress, and, not having performed any services for the United States, has no claim against this government.

Your committee therefore recommend that the claim of the petitioner be not allowed, that this report be accepted, and that the bill be indefinitely postponed.

O

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 22.

IN THE SENATE OF THE UNITED STATES.

NOVEMBER 30, 1877.—Ordered to be printed.

Mr. BAILEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill (S. 363) granting a pension to James Newcomb.]

The Committee on Pensions, to whom was referred the petition of James Newcomb, a citizen of the United States, residing at Carmel, county of Penobscot, in the State of Maine, asking that his name be placed on the pension-roll, beg leave to report:

That it appears from the evidence adduced that the petitioner was enlisted into the Army of the United States on the 7th May, 1862, for the term of three years, and was honorably discharged at the expiration of his term of service; that in the month of August, 1862, while in the line of his duty as a soldier, he was stricken with disease, which has resulted in a loss of hearing, and thereby he is disabled within the meaning of the acts of Congress providing for pensions.

Your committee therefore recommend that the name of said Newcomb be place on the pension-roll, and to that end report the accompanying bill.

O

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 23.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 1, 1877.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill (S. 364) for the relief of Peasley & McClary, of Nashua, New Hampshire.]

The Committee on Claims, to whom was referred the claim of Peasley & McClary, for transporting the mails and mail-agent from the depot of the Worcester and Nashua Railroad to that of the Wilton Railroad in the city of Nashua, N. H., having considered the same, respectfully report:

That they find the facts of the case correctly stated in the report of this committee submitted at the last regular session (January 27, 1875), which is as follows, and which was adopted by this committee January 7, 1876:

It appears from the evidence submitted in this case that, in 1867, the mail-route from Worcester, Mass., to Nashau, N. H., was extended to Wilton, N. H. This required the transfer of the route-agent and the mails from the Worcester and Nashau Railroad depot to the Wilton Railroad depot, a distance of about half a mile across the city of Nashau, and at the request of Mr. Burt, postmaster at Boston, who made provision for said extension, Peasley & McClary performed this service. The connection between the trains was close, and it required them to be promptly on hand to insure the transfer. They performed this service from December 2, 1867, to January 18, 1869, supposing the postmaster at Boston had authority to pay them.

Before the presentation of their claim to the Post-Office Department, more than two years had elapsed, and the unexpended balances had been covered into the Treasury, under the act of July 12, 1870, leaving no fund from which they could be paid.

There seems to be no question that the service was faithfully performed, and that claimants have not been paid. They transferred the route-agent and his mails for one year one month and sixteen days, and they offered to settle with Mr. Burt at one hundred dollars per annum.

We report a bill to pay them one hundred and twenty-five dollars, as a substitute for the bill S. 821 referred to us, and recommend its passage.

In this report and its recommendations your committee fully concur, and herewith report and recommend the passage of the amended bill as reported by that committee.

Your committee will further state that this bill appears to have passed the Senate at its last regular session but one and been sent to the House, where no final action was had upon it.

O

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 24.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 1, 1877.—Ordered to be printed.

Mr. MORGAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill (S. 365) for the relief of Francis Guilbeau.]

The Committee on Claims, to whom was referred the petition of Francis Guilbeau, with the accompanying papers, submit the following report:

This claim is for the rent of certain buildings in San Antonio and Galveston, Tex., in the years 1865 and 1866, amounting to three thousand seven hundred and one dollars and sixty-seven cents.

The loyalty of the claimant is proven conclusively.

The occupation of the buildings by officers of the United States Government for legitimate and necessary Army purposes is clearly proven, and contracts were entered into by which the claimant was to receive a reasonable rental.

The demand for rent for the buildings in San Antonio was declared reasonable by a board of survey consisting of officers of the Army. The claim was presented to the proper officers of the Treasury, but was rejected on the ground that the location of the building was in a State lately in rebellion, and they were prohibited by law from paying it. It was also presented to the Southern Claims Commission, and was rejected for want of jurisdiction.

It appears from the certificate of Capt. Henry S. Clubb, assistant quartermaster and district quartermaster, that the United States Government rented a ten-room building in San Antonio of Mr. Guilbeau, on the 24th day of August, 1865, and returned possession of it to him on the 10th of December, 1865. It also appears that a board of survey, convened June 6, 1866, recommended that a rent be paid for the use of the same by the United States Government.

It appears from the proceedings of a board of survey, composed of Army officers, convened on the 28th of August, 1866, that a rent of $400 per month was not "too much" for the use of the store-house then rented by Guilbeau to the government.

An affidavit of A. Fretelliere shows that he, as agent of Guilbeau, agreed with Capt. Henry S. Clubb, assistant quartermaster, that he (Fretelliere) was to receive $400 per month, or $4,000 per annum, for the rent of the above-mentioned store-building.

A letter from General S. K. Mizner shows that a dwelling-house of Guilbeau was occupied for military purposes by officers of the United States Army on the 12th of October, 1865, with a "perfect understanding that a proper rent should be paid" by the United States Government.

A certificate from General S. P. Heintzelman shows that the dwelling of

Guilbeau was used as headquarters by General Shaw, and afterward by himself in like manner, and that Guilbeau was to receive $150 per month rent for the same, and that the building was thus occupied from the 9th day of May, 1866, to the 31st day of August of the same year.

An affidavit of A. Fretelliere, agent of Guilbeau, shows that the dwelling was occupied on the 12th day of October, 1865, and from that time until the 1st day of September, 1866; that $100 per month was the rent agreed upon from October 12, 1865, to January 1, 1866, and from that day he was to receive $150 per month.

An affidavit of James P. Nash, agent for Guilbean, shows that the building known as Guilbeau's building, situated on lot No. 10, block No. 680, in Galveston, was occupied for Army purposes by Captain Atwood, assistant quartermaster, on the 19th day of June, 1865, and continued to be occupied until the 28th day of August, 1865, and it was agreed that he was to be paid punctually by the government. He states, further, that he never received any rent from the government for the use of the building, and that the rent charged the government was but little more than half the sum he received for it immediately after the vacation of the same by the government.

The affidavits of Messrs. William M. Varmell and James A. McKee show that Guilbeau was loyal to the United States Government during the war, and that he was compelled to leave his home in San Antonio because of his loyalty.

Your committee are of opinion that the claim of Francis Guilbeau should be paid, and report the accompanying bill and recommend its passage.

O

45TH CONGRESS, 1st Session. | SENATE. | REPORT No. 25.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 1, 1877.—Ordered to be printed.

Mr. WADLEIGH, from the Committee on Privileges and Elections, reported the following

RESOLUTION:

Resolved, That James B. Eustis is lawfully entitled to a seat in the Senate of the United States from the State of Louisiana, from the 12th day of January, 1876, for the term ending March 3, 1879; and that he be admitted thereto upon taking the proper oath.

O

IN THE SENATE OF THE UNITED STATES.

DECEMBER 1, 1877.—Ordered to be printed.

Mr. WADLEIGH, from the Committee on Privileges and Elections, submited the following

REPORT:

The Committee on Privileges and Elections, to whom were referred the credentials of James B. Eustis, for a seat in the Senate of the United States from the State of Louisiana, for the term of six years commencing March 4, 1873, ask leave to submit the following report:

Mr. Eustis claims to have been elected on the 12th of January, 1876. The body which elected him was that formed by what is known as the Wheeler compromise; and there is no doubt that it was the lawful legislature of Louisiana.

Two questions arise in this case. First, whether Mr. Eustis was lawfully elected; second, whether, at the time of his election, a vacancy existed which the legislature of Louisiana had the right to fill.

The legislature of Louisiana on the 12th day of January, 1876, consisted of a house containing one hundred and eleven members and a senate with thirty-six senators. On the 11th day of January, 1876, the house voted to go into an election for United States Senator, and the senate on the same day refused to do so. On the 12th day of January, it appearing that there had been no election on the day before, sixty-four members of the house and twelve members of the senate, being a majority of all entitled to seats in both houses, met in joint convention and elected Mr. Eustis.

Your committee find that, although the senate refused to take part, as such, in said election, and although a minority of the senate only did take part in it, yet there was a substantial compliance with the act of Congress of 1866. Upon the constitutionality of that act your committee express no opinion. The Senate has repeatedly, however, by its action, affirmed its constitutionality; and your committee feel bound by the precedents which the Senate has established.

The second question, whether or not a vacancy existed at the time of Mr. Eustis's election which the legislature of Louisiana had the right to fill, is one of some difficulty. At the time of said election Mr. P. B. S. Pinchback was a claimant for the same seat under two elections—one in 1873, the other in 1875. His credentials and claims under said elections had been presented to the Senate and by it referred to the Committee on Privileges and Elections. Said committee, on the 5th day of March, 1875, reported a resolution to the Senate that Mr. Pinchback be admitted thereto. On the 8th day of March, 1876, that resolution was amended so as to change it to a resolution that he be not admitted. The resolution was passed, as thus amended, on the same day.

Your committee feel bound to regard that vote of the Senate as a final

adjudication of the claims of Mr. Pinchback, and a decision that he had no right to a seat. Mr. Eustis's election took place while Mr. Pinchback's case was pending in the Senate, and it may be contended with much force that until the final adjudication by the Senate of Mr. Pinchback's claims there was no vacancy which the legislature was authorized to fill.

This question arose at the first session of the Twenty-third Congress, in the case of Potter *vs.* Robbins, where a majority of the special committee of the Senate held that the legislature of Rhode Island had no authority to proceed to the election of another Senator until the seat of the Senator-elect had been vacated by a solemn decision of the Senate of the United States. Silas Wright, of New York, made a report in behalf of the minority of said committee, in which it was contended that if the election of Mr. Robbins was not made by the lawful legislature of the State it was absolutely void, and that therefore Mr. Potter's election while Mr. Robbins's claim to a seat in the Senate was still pending was valid.

Your committee do not question the soundness of the rule laid down in that case, but are not disposed to apply it to this case, where the circumstances are very different. In the case of Potter *vs.* Robbins, Mr. Robbins had been admitted to the Senate, the committee had before it both his credentials and those of Mr. Potter; but here there is no contest. The Senate never admitted Mr. Pinchback to his seat, but decided that he had no right thereto.

This seat has long been vacant. Mr. Eustis is the only person who appears to claim it. The lawful character of the legislature which elected him is admitted. His election was substantially in compliance with the law of Congress. No one appears to contest his right to a seat. Under these circumstances your committee believe that Mr. Eustis should be admitted to the Senate, and report a resolution to that effect, and recoommend its passage.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 126.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 7, 1877.—Ordered to be printed.

Mr. MORGAN, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Archibald McDonald, having considered the same, submit the following report:

The claimant sets forth in his petition that he was a citizen of Walton County, Florida, in 1864, and was about forty years of age; that he never gave aid or comfort to the rebellion, but was always an adherent to the Union cause; that in September, 1864, General Asboth led a detachment of Federal troops through Walton County on a raid, and encamped near McDonald's house. While there the troops used and carried away for the use of the Army one horse, beef, and provisions, as set forth in an account attached to the petition, which includes corn, potatoes, tobacco, fodder, salt, wine, two suits of clothes, and three dozen chickens.

The affidavits of several witnesses substantially prove the statements of the petitioner.

It does not appear that General Asboth or any other officer authorized the soldiers to take these articles on account of the United States, and it is not probable that, in the absence of some urgent necessity, he would have taken the property of a poor man who was the friend of the Union. It is more consistent with the evidence to attribute the taking of McDonald's property to the trespass of the soldiery, who were tempted by the opportunity to improve their camp fare, and were not restrained by a proper consideration of McDonald's patriotic sentiments. The committee recommend that the claim be rejected; and ask to be discharged from its further consideration.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 27.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 7, 1877.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Daniel Smith, of Rush County, Kansas, late of Company L, Twelfth New York Cavalry, praying that he may be allowed a pension, have examined the papers and evidence in the case, and find that the affidavits filed to sustain the application originally made to the Pension Office were suspected to be forgeries; that subsequent investigation by a special agent of the Pension Office demonstrated the fact, and there is on file with the papers a confession made by the applicant, in the presence of the special agent, Benton, and another witness, that he himself signed all the affidavits in the case.

There is no evidence in the official records that the applicant ever suffered or was treated for the disease (rupture) for which he claimed a pension; on the contrary, the muster-out files show that no disability existed.

Your committee, therefore, ask that the case be indefinitely postponed.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 28.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 7, 1877.—Ordered to be printed.

Mr. BAILEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 212.]

The Committee on Pensions, to whom was referred the bill (S. 212) granting a pension to Charles H. Frederick, late lieutenant-colonel of the Fifty-ninth Regiment Illinois Volunteers, United States Infantry, beg leave to report:

That the papers and testimony offered in support of the bill do not show that said Frederick has been disabled or is in any wise injured by reason of wounds or injuries received or disease contracted while in the military service of the United States, and therefore that the committee be discharged from the further consideration of the bill, and that it be indefinitely postponed.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 29.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 7, 1877.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 167.]

The Committee on Pensions, to whom was referred Senate bill No. 167, granting a pension to William S. Grow, having examined all the papers in the case, find that the applicant was an assistant provost-marshal, who claims a pension on account of disease contracted in the service, resulting in permanent injury to vision. This claim was rejected by the Commissioner of Pensions because "the applicant was not entitled under the law." From this decision an appeal was taken, and the case reviewed by the board of review.

The report of this board sets forth the points in the case so briefly and clearly, that the committee adopts its language: "The rejection of this case was proper. If it had been intended to provide pensions for provost-marshals, deputy provost-marshals, and enrolling-officers disabled by disease, the fact would have been distinctly stated in the fifth paragraph of section 4693, Revised Statutes. As the words 'or disease contracted,' or 'otherwise incapacitated,' used in the first, second, and fourth paragraphs, are omitted in the fifth, it would seem to be evident that that paragraph was intended to provide only for cases of disability from wounds or injury by violence."

Your committee therefore report adversely on the bill, and recommend its indefinite postponement.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 30.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 7, 1877.—Ordered to be printed.

Mr. MORGAN, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the memorial of Henry E. Sizer, of Mississippi, have had the same under consideration, and submit the following report:

Your committee are of opinion that there are no sufficient reasons set forth in the memorial for taking the claimant's case out of the bar of the statute of limitations.

It does not appear from the memorial that the claim should be allowed if the bar were removed. Your committee recommend that the prayer of the memorialist be not allowed, and that the committee be discharged from its further consideration.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 31.

IN THE SENATE OF THE UNITED STATES.

DECEMBER 7, 1877.—Ordered to be printed.

Mr. BAILEY, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the memorial of Lawrence H. Broyle, praying that his name be placed on the pension-roll, beg leave to report:

That it does not appear from the papers and testimony on file, otherwise than from his own statement, that said Broyle was ever enlisted in the military service of the United States, or was wounded or otherwise disabled when in the service.

O

ERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

mittee on Claims, to whom was referred the petition of Mrs. Sue , of Lauderdale County, Tennessee, praying compensation for the g and destruction of her building in said county of Lauderdale by States troops during the late civil war, have considered said peti- nd respectfully report:

he petition of the claimant avers that in October, 1862, she was itizen of the United States, resident in the county of Lauder- the State of Tennessee; that at that time she was the owner of eal estate situate in the county of Lauderdale; that in October, order of Major Strickland, commanding the Fifty-second Regi- Indiana Volunteers, the following buildings belonging to her ned and destroyed, viz: One dwelling-house, one corn-crib, one one meat-house; also certain household furniture, not enumer- l about 250 bushels of corn; also the fence around such dwell- e; and that the said property was of the value of $1,675.

aimant's petition is supported by the affidavit of two witnesses, ar that the property described in the claimant's petition was y the orders of said Major Strickland, and that such property at time reasonably worth the sum of $1,675.

r claimant nor witnesses have explained the circumstances hich the property was burned, nor the reason or cause of its ion. The memorialist states in her petition "that it was burned royed for the benefit of the military service of the Army." The s make a similar statement in their respective affidavits.

as appears from any evidence before your committee, the de- of the property was a wanton act of the soldiers, and that there nilitary necessity for the destruction of the property, nor for the ion of any part of it.

NGRESS, } SENATE. { REPORT
ssion. } { No. 33.

IN THE SENATE OF THE UNITED STATES.

JANUARY 16, 1878.—Ordered to be printed.

GENT, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 493.]

mittee on Naval Affairs, to whom the bill (S. 493) to provide for noval of the Naval Observatory was referred, respectfully report:

he present site of the Naval Observatory is totally unfit for such ution, for various reasons. Among these reasons are the malaences surrounding it, and the fogs which rise from the river, y the prevailing winds, floating above the instruments and lesseir usefulness.

AS TO SANITARY CONDITIONS.

stimony of eminent physicians is abundant that the sanitary n of the observatory is very bad.

al Director George Clymer testifies from nearly eight years' ice, during which he had medical charge of the naval officers and milies at Washington, that "the location of the observatory is hful, caused by the malaria from the shores of the Potomac, from o artificial means will secure it."

al Director Charles D. Maxwell, who served two terms at the tory, states that "frequent cases of malarial fever occurred he officers, more especially those engaged in night observations. nilies of the Superintendents residing at the observatory suffost severely, the effects of which can even yet be observed in some The ground on which the buildings stand has a substratum of l, porous, and consequently unhealthy. The miasmata from the t marshes, wafted by the prevailing southwest and southeast penetrate every crevice, and the dense fogs from the shores of omac so envelop the entire hill as to render at times observapossible. I therefore consider the observatory, with its surroundinently unhealthy and unsuited for the purposes intended, and removal to some more eligible height, westward of the city, is desirable but necessary."

al Inspector Philip S. Wales states during the two years that he ached to the Naval Dispensary as attending surgeon, "the offihe observatory have been frequently sick from the effects of conposure to malarial influences in the discharge of their official I do not think that any very material improvement can be made buildings or grounds that will effectually eliminate the local

causes of disease, even by the expenditure of large sums of money. It seems to me that it would be true economy to remove the entire establishment to some desirable point in the vicinity of Washington, where the necessary sanitary conditions might be fully secured to maintain the *personnel* of the observatory in the highest state of physical efficiency."

Dr. Grafton Tyler states that from thirty years of personal experience he has been familiar with the state of health at that locality, and during the whole period it has been subject to malarial fever. Dr. D. R. Hagner makes a similar statement, and thinks Admiral Davis's health was undermined and his life shortened by his residence at the observatory.

Dr. Alexander Y. P. Garnett says:

During the years of 1849 and 1850 I was assigned to the duty of attending the officers stationed at this post, and had ample opportunity to observe the pernicious effects of the malaria which infested that locality. When we consider the immediate proximity of the low marshes stretching along the river at the base of the hill upon which the observatory is situated, together with the recognized fact that marsh malaria most usually manifests its effects at the nearest eminence from its paludal source and to the leeward of the prevailing wind, we can readily understand why this locality has always been, and will continue to be, subject to malarial fevers. The truth of this statement you can at once verify by obtaining the experience of those officers who have resided at the observatory during the last quarter of a century.

Prof. M. Yarnall gives numerous instances of the death, caused by the malarious surroundings of the observatory, of some of the best officers and brightest men ever in service at the observatory, whose loss was to be deplored by the whole scientific world.

Aside from the danger to the life and health of those on duty at the observatory, it is to be observed that the government cannot expect thorough service from sick men. Professor Newcomb states that "the unhealthfulness of the present location is such as greatly to diminish the working capacity of the observers." He believes "that this capacity would be increased one-third could the observers safely live and sleep near the scene of their labors."

THE EFFECT OF FOGS.

Prof. M. Yarnall states that in the fall, principally in September and October, the observers have often to stop work after midnight, from the fogs which rise from the river.

Prof. Asaph Hall says:

My experience is that the observations which are chiefly affected by the river-fogs are those of faint objects, like comets or the small planets, when observed at a low altitude. During the summer and fall it not unfrequently happens that observations of such objects are prevented by these fogs.

Prof. John R. Eastman says:

"1. That the peculiar location, in addition to its effect on the health of the officers on astronomical duty, has a very bad influence on the work with the more delicate instruments. At intervals throughout the year, and on nearly *every* night from May to December, the surface of the Potomac River in the vicinity of the observatory is covered toward the latter part of the night with a mass of vapor or fog, which rises to such a height as completely to envelop the observatory, and is so dense as seriously to interfere with all observations of small objects. From Georgetown Heights, the whole southwestern portion of the city is shut out of view, and the Potomac basin seems like a lake.

2. The heated air over the dwellings north of the observatory seriously interferes, in the winter, with the definition of all objects within 25° of the horizon, and the increase of the number of buildings in that section of the city augments the difficulty every year.

Prof. Edward S. Holden also testifies to the unfavorable atmospheric conditions obtaining at the observatory for objects of low alti-

tude, which he attributes to the proximity of the Naval Observatory to the river, "whose fogs and vapors exert a decidedly hurtful influence on astronomical work."

These citations are sufficient to show the unsuitableness of the present site of the Naval Observatory. If it could be removed to the high grounds north of the city it would be lifted above the fogs and malaria which now interfere with astronomical observations by obstructing vision and shattering the nerves of the observers.

WORK OF THE OBSERVATORY AND ITS APPRECIATION ABROAD.

It will not be controverted that if the government is to maintain an observatory, it should do so under conditions favorable to its thorough efficiency, and with due regard to the health of those who execute its purpose. The intelligent labors of those connected with the National Observatory, under most unfavorable circumstances, and too often at the expense of health and life, are well set out in a memorandum prepared by Admiral John Rodgers, the present Superintendent, which accompanies the report of the Secretary of the Navy, submitted at this session of Congress. As this document contains in as condensed a form as possible the facts showing the value of this observatory to science and to American credit, we give it here. He says:

The work of this observatory, like that of the Greenwich Observatory, England, has always contemplated the direct relation between the highest astronomical results and the improvement of navigation. In England, the Astronomer Royal is directed by his warrant of office "to apply himself with the most exact care and diligence to the rectifying of the tables of the motions of the heavens and the places of the fixed stars, in order to find out the so much desired longitude at sea for perfecting the art of navigation"; and the present Astronomer Royal, Sir George B. Airy, has repeatedly referred to this in his official reports, adding that "the building was erected mainly for observations of the moon and stars regarded as accessories to lunar observations, the search for comets, &c., forming no part of the usual business of the observatory."

The United States Naval Observatory owes a like origin entirely to those wants and uses of the Navy and merchant marine that pertain to navigation, as plainly appears on reference to the recommendations of the Navy Department, the memorials presented to Congress, and the reports of its committees adopted at its establishment in 1843.

Its legitimate work in the furtherance of navigation has been steadily pursued, evidence of which is to be found in its series of annual volumes and special treatises dating from its establishment, nearly one thousand copies of which are now yearly supplied to a foreign and home demand. The larger part of its work is in fields of immediate practical value.

1. In the determination of positions of important points within our country, it is in nearly constant co-operation with the Coast Survey and with the heads of exploring parties in determining the latitudes and longitudes of cities, boundary points, and important stations in every part of the States and Territories. Some of these determinations will be found reported in full within its volumes, as the report on the difference of longitude between Washington and Havana, and between Washington and Saint Louis, by Professor Harkness; and that on the longitude between Washington and Detroit, Mich., and Carl.n and Austin, Nev., and between Washington and Ogden, Utah, by Professor Eastman.

All longitudes in this country are now, in the first place, determined by means of or are referred to this observatory.

2. It co-operates with the Navy in determining positions abroad. It is the depot where the chronometers for the Navy are kept and rated, and from which naval vessels are supplied with them on being placed in commission. Its appliances are always open to officers of the Army and Navy who wish to avail themselves of them in determining positions.

It drops a time-ball at noon from its own dome, and, through the agency of the telegraph-wires, a ball at noon also in the city of New York; and gives the time to the wires for transmission through the United States.

3. The institution has from its foundation rendered essential aid to the American Ephemeris and Nautical Almanac by perfecting the tables indispensable to the navigator and the astronomer. Observations of the moon afford the best means for determining the longitude at sea when chronometers fail from any cause, and on land at

great distances from a telegraph-station. All the tables of the moon being hitherto defective, a study of the causes of these defects has been carried on for some years, founded on a discussion of all accurate observations of eclipses on record from the earliest ages to the middle of the last century.

The appreciation of the work of the observatory by the astronomical and other scientific authorities of Europe may be learned in part by such references as follow; the only two authorities quoted being the German Astronomical Review, and the Monthly Notices of the Royal Astronomical Society of England.

I.—*Tabular exhibit of the number of pages of the International Astronomical Society's Quarterly Review (Vierteljahrschrift der Astronomischen Gesellschaft), devoted to reviewing the work of various observatories and of the astronomers connected with them.*

Observatory.	Astronomer.	Number of pages.
Pulkova	Struve	24.5
	Döllen	6
	Zinger	18
	Lindemann	8
	Gyldén	49.5
	Fuss	8.5
	Kortazzi	3
Sum		117.5
United States Naval Observatory.		42.5
	Newcomb	59
	Harkness and Frisby	3
Sum		104.5
Leiden	Kaiser	51.5
	Valentiner	11
Sum		62.5
Bonn	Argelander	60
Milan	Schiaparelli	57
Berlin		12
	Auwers	34
	Bremiker	8.5
	Förster	2
Sum		56.5
Melbourne	Ellery	36
	Robinson and Grubb	20
Sum		56
Paris		29
	Le Verrier	9
	Villarceau	6
	Löwy	4
	M. C. Wolf	4
Sum		52
Greenwich		28
	Airy	16.5
	Glaisher	3.5
Sum		48
Leipsic	Vogel	4.5
	Bruhns	11
	Engelmann	31.5
Sum		47
United States Coast Survey.		3
	Gould	40.5
Sum		43.5
Geneva	Plantamour	40.5
Rome	Secchi	38.5
Dublin	Brünnow	38.5
Bülow's private observatory.	Vogel	35
Radcliffe Observatory		13
	Main	19.5
Sum		32.5
Munich	Lamont	30.5
Stockholm	Bäcklund	11
	Gyldén	18.5
Sum		29.5
Manheim	Schonfeld	28.5
Göttingen	Copeland	28
Kiel	Peters	27.5
Münster	Heis	24.5
Capo di Monte, Naples	Fergola	22
Hamburg	Helmert	22
Upsala	Nyrén	5
	Schultz	14.5
Sum		19.5
Harvard College		17
	Rogers	2
Sum		19
Utrecht	Höeck	3.5
	Rosén	14
Sum		17.5
Zürich	Wolf	15
Ordnance Survey Office, Southampton.	Clarke	15
Padova	Santini	14.5
Ann Arbor Observatory.	Watson	14.5
Yale College	Newton	12.5
Cape of Good Hope	Stone	11
Kiew	Chandrikow	9
Helsingfors	Krüger	9

I.—*Tabular exhibit of the number of pages of the International Astronomical Society's Quarterly Review, &c.*—Continued.

Observatory.	Astronomer.	Number of pages.	Observatory.	Astronomer.	Number of pages.
Copenhagen	D'Arrest	5.5	Königsberg		5
	Thiele	3	Vienna	Littrow	4
Sum		8.5	Barclay's private observatory.	Talmage	0.5
Brussels		2		Barclay	3
	Houzean	5.5	Sum		3.5
Sum		7.5	Altona	Peters	3
Dudley Observatory		7	Mitau	Napiersky	3
Wilna	Berg	6.5	Moscow	Schneizer	2
Prague	Hornstein	5	Cronstadt	Fuss	1.5
New Haven	Loomis	5			

An inspection of the preceding table will show that, so far as astronomical work has been reviewed by this leading German review, during the ten years of its existence, the Naval Observatory has held a large place in its voluntary notices. The acquisitions of the older observatories, accumulated for centuries, amount in their aggregate value to far more than those to which this recent institution can pretend.

II. In the report of the council of the Royal Astronomical Society of England, for the year 1874, the "Washington Catalogue of Stars," observed at the United States Naval Observatory during the years 1845 to 1871, and prepared for publication by Prof. M. Yarnall, is noted as "a valuable contribution to observing-astronomy; the catalogue containing 10,658 observed stars, and including many observed in the Army and coast surveys, and many from Lacaille's Catalogue, not hitherto reobserved."

In the same report, and in the address of President Cayley, when presenting the society's gold medal for astronomical work, the contributions of Professor Newcomb to the volumes of its observations for the years 1865, 1870, and 1873, and to other publications, are commended as "exhibiting, all of them, a combination, on the one hand, of mathematical skill and power, and, on the other, of good hard work, devoted to the furtherance of astronomical science. The Memoir on the Lunar Theory contains the successful development of a highly original idea, and cannot but be regarded as a great step in advance in the method of the variation of the elements, and in theoretical dynamics generally. The two sets of planetary tables are works of immense labor, under the guidance of profound mathematical skill."

The announcement is also made that the tabular place of the planet Uranus for the year 1877 had been incorporated into the British Nautical Almanac from the table calculated by Professor Newcomb. The Monthly Notice of the Royal Astronomical Society has also given full place to the contributions by Professor Holden on the interesting Ring Nebula in Lyra, on the Trifid Nebula, the Satellite of Uranus, and other astronomical topics.

In the most recent memoir, "L'Astronomia in Roma," from the pen of the distinguished astronomer of Rome, Padre Secchi, the observatories of "Pulkova, Greenwich, Washington," &c., are placed together in the first class.

The search for new objects has never been made a part of the regular work of the observatory, because it has generally been felt that an institution supported at the expense of the nation should confine its energies to fields known to be remunerative. Still, it has taken a place near the highest as a seat of discovery. The first discovery of a planet made on this side the Atlantic was by Mr. Ferguson, in 1854, with the old telescope of the observatory. Recently the discovery of two satellites of Mars, by Professor Hall, must, by the common consent of astronomers, rank as the greatest telescopic discovery since that of Neptune in 1846. Considering that Mars is the nearest planet outside the earth, and has been constantly scrutinized ever since the invention of the telescope, it will probably be conceded that this is one of the most surprising discoveries ever made. It may be remarked that the regular work of making observations, with the great telescope, on the satellite of Saturn, in order to determine the mass of that planet, was not stopped a single night by this discovery.

It will be seen from the foregoing that the observatory is a great national institution, and that, within its sphere, it amply returns, both in material value and national fame, all the sums expended upon it.

And it will also be seen that an institution which has given so much fruit should not be confined to a locality where fogs hinder the observations, and malaria undermines the energies of the observers.

The present observatory is in an extremely dilapidated condition. It is damp and unwholesome; the bricks falling out of the walls; the woodwork greatly decayed—it has not been painted for ten years. All the approaches have been made difficult, and the front approach impassable, by the excavation of streets in the neighborhood. The buildings, containing the finest telescope in the world and priceless records and valuable library, are mere tinder-boxes. About $30,000 would be needed to put the observatory in ordinary repair, and then it would not be fireproof. The expense of repairs may be avoided in case provision is made for removal to another place. The cost of a new site and proper improvement will not exceed $300,000, part of which will be reimbursed by the sale of the present site.

A board of survey was created by the act of Congress in 1872, at the head of which was General A. A. Humphreys, Chief of Engineers, which board reported in regard to the present site of the observatory as follows:

Reservation No. 4, at the southwest edge of the city, on the Potomac, together with a small amount of private property adjoining, is located on a high hill, requiring very steep grades in the adjacent streets. Along the foot of this hill runs the water-front, in such close proximity as to render it totally unavailable for any business purpose. The necessities of the improvements in this part of the city demand the reduction of this hill and high ground to such grades as the authorities of the District may deem necessary to meet the emergencies of the case.

Unfortunately, upon this reservation is situated one of the very best, most ably conducted, and valuable scientific institutions of the government, viz, the Naval Observatory. Although it is most important that this hill be reduced, it should not and must not be at the expense of the slightest injury to this important observatory, but, on the contrary, to its great advantage. Very much better localities can be found within the District, and the sale of the reservation would produce a sum sufficient to procure a site abundantly large, where this great institution, in which all Americans take just pride, could be developed on a scale which its merits and importance demand.

* * * * * * *

The materials from this hill can be most profitably used for filling the low grounds between it and Seventeenth street west, as well as the reclaimed lands.

The new observatory should be substantially built, to last for all time. The estimated cost is not extravagant. The great Russian observatory at Pulkova cost $440,000, and the Austrian Government is now erecting a new observatory at nearly the same cost. An adequate, durable observatory, adapted to all present and future wants, can be built here at the cost estimated.

The new site selected for the observatory should contain at least thirty acres of land, so that it may not in the future be surrounded by dwellings or factories, the smoke from which would obscure the clearness of vision, the traffic shake the instruments, and some high structure, if placed on the meridian, near the instruments, hide a useful part of the heavens. It is believed that the present site will sell for a greater sum than the cost of a new one.

The Secretary of the Navy, in his annual report, submitted at this session, recommends the removal of the observatory. He says:

The location of the observatory exposes it to unhealthy influences, the effects of which have already been witnessed in the impaired health of its occupants. It is very desirable that it should be changed to some more suitable point, which may be more economically done while the buildings are becoming dilapidated, than at some future period after the money necessary to put them in a good state of repair has been expended.

Scientific men from all parts of the country have united in a memorial urging upon Congress the immediate removal of the observatory, hav-

ing regard to its usefulness and the health of those intrusted with its valuable labors. A committee appointed for the purpose by the American Academy of Arts and Sciences, consisting of Robert C. Winthrop, Charles C. Elliott, J. Ingersoll Bowditch, Benjamin Peirce, and Edward C. Pickering, also memorialize Congress, and say that they are "deeply impressed with the importance of placing the observatory in a situation less exposed to fogs and fever, and for providing for it a building which shall be safer from fire." Your committee believe that the highest reasons of utility and humanity require that such removal should be made, and therefore report back Senate bill No. 493 and recommend its passage.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 34.

IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1878.—Agreed to and ordered to be printed.

Mr. MAXEY, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

The Committee on Post-Offices and Post-Roads, to whom was referred the petition of William Moss, of Arkansas, beg leave to report as follows:

This is a claim for extra compensation for carrying the mail over route No.—, from Washington, Ark., to Clarksville, Tex., between July 1, 1854, and July 1, 1858, at $6,400 per annum. This petition was presented October 23, 1877.

No reason is assigned why his application was not long since made. The delay to present this claim until after so great a lapse of time, although it may have had merit, is, in our judgment, fatal. We respectfully recommend that it be not approved.

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45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 35.

IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1878.—Agreed to and ordered to be printed.

Mr. EDMUNDS, from the Committee on the Judiciary, submitted the following

REPORT:

The Committee on the Judiciary, to which was referred the petition of William W. Handlin, of New Orleans, La., praying for the passage of a law allowing him compensation for services as judge of the third district court of New Orleans, from the year 1864 to the year 1868, respectfully report:

That from the petition and from the record in the Supreme Court of the United States, December term, 1870, in the case of Handlin *vs.* Wickliffe, the committee find the following to be the facts on the subject:

During the late civil war, when the State of Louisiana was occupied by the troops of the United States, Brig. Gen. G. F. Shepley, who had been appointed military governor of the State, commissioned W. W. Handlin as judge of the third district court of New Orleans. Handlin took the prescribed oath and entered upon the duties of his office. Subsequently, while the war was yet flagrant, a constitution was adopted for the State, under military orders, by a portion of its citizens, and Michael Hahn was elected governor, and was also appointed military governor in place of Shepley by the President. Handlin, who remained judge after the election and appointment of Hahn, was removed from office by him on account, as it appeared, of a decision to the effect that slavery still existed in the parish of Orleans, which had been exempted by President Lincoln from the operation of the proclamation of emancipation. Asserting that notwithstanding this removal he remained of right in office and was entitled to its salary, Handlin, after the final suppression of the rebellion and reconstruction of the State, sued out a writ of mandamus in one of the inferior State courts of Louisiana against Wickliffe, the auditor of public accounts of the State, to compel payment. The judgment of the court was against him and the mandamus was dismissed. An appeal having been taken to the supreme court of the State and the judgment affirmed, Handlin brought the case to the Supreme Court by writ of error, where the judgment was affirmed.

In the language of that court in delivering its opinion, the committee think that "it is too clear for argument that the appointment of the relator as judge was purely military, authorized only by the necessities of military occupation, and was subject to revocation whenever, in the judgment of the military governor, revocation should become necessary or expedient," and if the adoption of the constitution in that State terminated the rightful military sway of the United States, then the petitioner

instantly ceased to be judge, and all his authority derived from his appointment fell, and he would have no right longer, either under the State or under the military power, to hold the office. If, on the other hand, the adoption of the constitution under the circumstances did not terminate the sway of the military power, then the same power could be rightfully exercised at any time in terminating the office and function of judge, as was done. And it is of no consequence whether the motive that moved the commanding general to the act of vacating the appointment was adequate or inadequate.

The committee are unanimously of the opinion that the petitioner has no claim, either in justice or in law, against the United States, and they recommend that the prayer of the petitioner be denied.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 36.

IN THE SENATE OF THE UNITED STATES.

JANUARY 22, 1878.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 252.]

The Committee on Military Affairs, to whom was referred the bill (S. 252) for the relief of W. D. Rollyson, of West Virginia, submit the following report:

1. Rollyson claims pay, at the rate of $3 per day, as "chief of scouts" for the counties of Lewis, Braxton, Upshur, Randolph, and Gilmer, West Virginia, from May, 6, 1864, to December 15, 1864, under an order of appointment made by Major-General Sigel, commanding Department of West Virginia, dated May 6, 1864, in which the rate of compensation is fixed at $3 per day.

2. Rollyson is relieved from duty as "scout," as detailed by Major-General Sigel, by Special Order No. 5, from headquarters Department of West Virginia, Major-General Crook commanding, dated December 15, 1864.

3. Rollyson then endeavors to get his pay. December 21, 1864, forwards his papers to Hon. E. M. Stanton, Secretary of War, with indorsements.

General Crook reports, November 20, 1864, that if Rollyson is borne on any quartermaster's rolls he can be paid, otherwise pay must come from the War Department; and Rollyson states, December 21, 1864, that his name is not on any rolls.

December 29, 1864, his claim was referred to General Crook from the Adjutant-General's Office United States Army. January 2, 1865, General Crook reports that "this person" was employed by General Sigel, as shown by letter of appointment, but that there is no record of his appointment, nor is his name on any pay-roll. Further, that as soon as he heard of his appointment he relieved him (see Special Order No. 5), December 15, 1864, as his services were not required by him, as a scout, nor had he been so employed by him. General Crook then suggestively adds:

> This seems to be one of a number of appointments made within the department, and of different characters, for the purpose of employing individuals.

These papers were also referred to General Sigel, who, under date of January 22, 1865, makes special report, but no material fact brought out.

4. Unfavorable reports of the claim come from every quarter.

November 9, 1877, Rollyson is informed by the War Department, by

letter signed Henry Goodfellow, judge-advocate, that his claim was rejected in 1865 upon report of General Halleck that "his appointment was illegal and without authority."

August 21, 1874, General Meigs, Quartermaster-General, reports: "There is now neither money nor law for payment of this claim, even had it not been rejected by the Secretary of War when presented in 1865." (See letter of E. D. Townsend, Adjutant-General, February 4, 1865.)

February 2, 1865, Col. James A. Hardie, Inspector-General, says: "This account cannot be allowed, and the claimant will be so informed."

We find among a package of papers from the War Department a commission from the governor of West Virginia to Rollyson, dated May 16, 1864, as *major of independent companies of scouts in the service of the State of West Virginia*, to rank as such from May 6, 1864.

From the foregoing we conclude:

1. Rollyson's appointment by General Sigel was without authority of law and void.

2. So far as official reports go, nothing shows that he ever was recognized as in the service of the United States after General Sigel was relieved from command of the Department of West Virginia, May 21, 1864. There is an affidavit signed by two citizens that he performed the services, but we apprehend there is better evidence if such is the fact.

3. We submit the point of General Crook, that it seems to be an appointment for the purpose of employing individuals.

4. If he is entitled to pay anywhere it is under his commission from the governor of West Virginia for service in the State of West Virginia.

5. The claim is without equity, and the precedent of its allowance would be bad. It is, therefore, respectfully recommended that it be reected.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 37.

IN THE SENATE OF THE UNITED STATES.

JANUARY 22, 1878.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 376.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 376) entitled "An act for payment to the officers and soldiers of the Mexican war," &c., have had the same under consideration, and submit the following report:

The act of July 19, 1848, which House bill No. 376 seeks to revive, was "repealed" by the act of July 12, 1870. (Secs. 4, 5, chap. 251, vol. 16, Stat. at L., pp. 250, 251.) According to the construction of that law by the accounting-officers of the Treasury—though it will be observed that neither the act of July 19, 1848, granting extra pay to the men of the Army, nor the act of August 31, 1852 (chap. 109, vol. 10, p. 100), granting extra pay to persons in the naval service on the coasts of Mexico and California (the same as had been allowed to the Army serving in California, see chap. 78, 1850, vol. 9, pp. 504, 505) are specifically mentioned as being included in the laws repealed by said act of July 12, 1870.

A proviso to House bill No. 376, on line 12, after the word "received," to wit—

Provided, That the provisions of said act shall include also the officers, petty-officers, seamen, and marines of the United States Navy employed in the prosecution of said war—

would perhaps be just and proper.

The debate in the House (see Cong. Rec., Jan. 19 inst.) when the bill passed, will give some light on the subject.

The same bill passed the House June 30, 1876, and some remarks were made by Mr. Riddle and others on the merits of the case. (See Record, July 1, 1876.)

Your committee, therefore, recommend the passage of the bill, amended by the proviso.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 38.

IN THE SENATE OF THE UNITED STATES.

JANUARY 22, 1878.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 217.]

The Committee on Military Affairs, to whom was referred the bill (S. 217) for the relief of John A. Shaw, have duly considered the same, and submit the following report:

Your committee find that during the first session of the Forty-fourth Congress this committee, upon a bill for relief of said Shaw, precisely similar to the present bill, made to the Senate the following report, to wit:

John A. Shaw, the petitioner, was a sergeant of Company G, One hundred and twenty-second Regiment Illinois Volunteers, and on September 27, 1864, there was a vacancy in the office of first lieutenant of said company. On November 18, 1864, Richard Yates, governor of the State of Illinois, duly appointed and commissioned said John A. Shaw "first lieutenant of Company G, One hundred and twenty-second Regiment Illinois Volunteers, with rank from September 27, 1864."

Lieutenant Shaw immediately entered upon the duties of the office of first lieutenant, and discharged and performed such duties faithfully and gallantly until his muster out July 15, 1865.

On the 16th day of December, 1864, near Nashville, Tenn., Lieutenant Shaw, while gallantly leading his company, was severely wounded, from which he has never fully recovered. About April 1, 1865, he rejoined his company at Blakely, Ala.

On April 22, 1865, he was duly mustered in as first lieutenant, to take effect February 1, 1865.

On account of his active service in the field and his severe wound received in such service, he was not able to be mustered in sooner, and consequently could not draw the pay and allowances of a first lieutenant from November 18, 1864, to April 22, 1865, the date of actual muster in, although there was a vacancy, and he had been duly commissioned to fill that vacancy, and had faithfully and gallantly performed all its duties.

His commission, with the certificate of muster in duly indorsed thereon, his own sworn statement, and the affidavits of his colonel and captain and the adjutant of his regiment, accompany the bill, and clearly establish the foregoing facts.

The affidavits of three surgeons also accompany the bill, and show the permanent injuries incurred by reason of the wound.

Lieutenant Shaw was a gallant, faithful, and efficient officer, and has not received the pay and allowances due therefor, on account of no fault or neglect on his part, and is unquestionably entitled to them.

Your committee, therefore, earnestly recommend the passage of the accompanying bill.

Said bill then pending (S. 509) passed the Senate and was favorably reported in the House of Representatives, but no final action had. Your committee have again carefully reconsidered said case and fully concur in the above report.

Your committee recommend that said bill do pass.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 39.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1878.—Ordered to be printed.

Mr. HARRIS, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 256.]

The Committee on Claims, to whom was referred the bill (S. 256) for the relief of Israel Yount, submit the following report:

That on the 1st day of July, 1863, and for some time prior to that day, the petitioner was the tenant in possession of and keeping hotel in the Washington House, in Gettysburg, Pa.; that he was paying an annual rent of $350 for said hotel; that on the 1st of July, 1863, while the battle of Gettysburg was being fought, the said hotel was taken possession of by officers of the First Corps of the Army of the Potomac for a hospital for the wounded of the Union Army, and that it was used and occupied as a hospital from that day to the 26th of that month, when it was vacated; that on the evening of the 1st July, 1863, the Union troops fell back and the Confederate troops took possession of the town, and on the morning of the 2d of July, 1863, the petitioner obtained a pass from the Confederate general to pass beyond his lines, and he and his family left the hotel and the town of Gettysburg and did not return to the hotel until it was vacated by the Army.

Petitioner claims that he is entitled to rent of hotel from—

July 1 to 26, at $10 per day while occupied	$260 00
And for rent of hotel for 21 days while undergoing necessary repairs, at $10.	210 00
And for actual cost of repairs made	100 00
He also claims that he owned and had in said hotel, when so taken, and which were consumed or destroyed "by the hospital while occupying it"—	
20 first-class beds, worth $40 each	800 00
10 second-class beds, worth $25 each	250 00
3 common beds, worth $8 each	24 00
200 yards carpeting	200 00
Furniture, tables, chairs, stands, and glasses	50 00
Table-cloths, towels, and napkins	50 00
Queensware for table	100 00
Knives, forks, spoons, &c	50 00
2 barrels flour, at $7.50	15 00
6 cords wood	18 00
25 gallons cherry wine	31 25
2 hams, $7; 100 pounds lard, $12	19 00
10 bushels oats, $5; 1 ton hay, 10	15 00
The whole aggregating	2,322 25

And he proves by two witnesses that this statement of property and losses is substantially correct, and that he was loyal to the Union cause.

General Crosman, to whom this claim was referred by the Quartermaster-General for investigation, visited Gettysburg in order to ascertain the facts. He says in his report to the Quartermaster-General:

After a personal examination of the building and careful inquiry among the residents and neighbors, who were well acquainted with this case, I learned that very many such losses was the result of battles of Gettysburg. The wounded men of both the Union as well as rebel Army were temporarily placed in hotels, stores, warehouses, and private dwellings during these battles, and, consequently, much damage to furniture, &c., was the result. Mr. Yount and his family left and abandoned the hotel on the first day of the battle, when our troops were driven out of the town, and it is the impression of his neighbors that the destruction of his furniture, &c., was partly, if not wholly, done by the rebels during the three days they were in possession of the town; although it is asserted by the claimant that his house was filled with wounded Union soldiers, under the care of a Union surgeon who had his office in this hotel. But whether the damages and losses were made by Union or rebel troops, I think the charges for the same are greatly in excess of the actual loss, and more conclusive and satisfactory proof is needed to fix, in detail, its amount.

The certificate of Surgeon James, then in charge of the hospitals about Gettysburg, does not specify any of these particulars, only the fact that the building was used as a hospital from the 1st to 26th July.

From all the facts in this case the committee is satisfied that it is the ordinary case, of which there were very many, of a house near the battlefield being temporarily used for hospital purposes; that the petitioner and his family left the hotel from choice rather than from necessity, or, as they put it, by being crowded out by the wounded soldiers.

With the exception of the flour, hams, lard, wine, oats, hay, and wood, which, at the prices the petitioner puts them at, only amount to $98.25, the personal property which he claims to have been consumed or destroyed was of a character which must have been wantonly and unnecessarily destroyed, if destroyed at all; and in addition to this, the fact that the deposition of the surgeon who was in charge of the hospital while at the hotel has not been taken to prove the quantity and value of articles consumed and used by the hospital, is, to say the least of it, a suspicious circumstance. For he could have settled the question as to whether or not these various articles, which swell this claim, were used or destroyed by his patients, his subordinates, and himself. Whether, if destroyed at all, they were necessarily or wantonly destroyed.

The petitioner has been paid by the Quartermaster's Department rent for the hotel for the 26 days it was occupied as a hospital, at the rate of $10 per day, making the sum of $260, and reimbursed in the sum of $100, the amount spent in necessary repairs after it was abandoned as a hospital.

The allowance of $10 per day rent was certainly liberal, in view of the fact that he was paying less than $1 per day.

In view of the fact that the proof fails to satisfy the committee that his losses were not in a great measure, if not entirely, occasioned by the unnecessary abandonment of the property by the petitioner;

And the fact that it fails to satisfy the committee whether the property destroyed or taken away was destroyed or taken by Union or Confederate soldiers;

And the fact as to whether almost the whole of it, said to have been destroyed, was not wantonly destroyed;

And the fact that petitioner has already been paid the sum of $260 for 26 days' rent, that cost him less than $26:

The committee recommend that the claim be rejected, and the bill be indefinitely postponed.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 40.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1878.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 388.]

The Committee on Claims, to whom was referred the petition of John Burt, Austin Burt, Solon Burt, Wells Burt, and William A. Burt, have considered the same, and submit the following report:

The petitioners represent that they are the heirs of the late William A. Burt, who is represented in the petition to have been the inventor of the solar compass. The memorialists further represent in their petition that the same compass has been adopted by the Government of the United States, and has long been in use in the surveys of public lands; that said instrument has been of especial use to the Government of the United States for rapid and accurate surveying of public lands, particularly in this region where the magnetic compass could not be relied upon; and that for the past thirty-five years very great benefit has been derived from the use of the solar compass by the Government of the United States, and that very little has accrued to the inventor or his family.

The memorialists further represent in their petition that the invention has saved the government millions of dollars, and at the same time enabled it to establish more accurate and reliable surveys than could have been made by any other means. In short, the memorialists petition Congress that it may take into consideration the value of this invention to the government, and the service it has rendered, and make to them an appropriation in some degree adequate to compensate the heirs and representatives of said William A. Burt for the expense incurred in inventing and perfecting said instrument and the value it has been to the government.

Your committee remark, in the first place, that the memorial is not sworn to, and that no evidence whatever has been submitted to your committee, nor has the committee been informed, by the petitioners or otherwise, where any evidence in regard to the facts alleged in the petition can be found.

There is no evidence before your committee that the said William A. Burt was the inventor of the solar compass. If he were such inventor, it is probable that your committee could ascertain the fact by applying to the Commissioner of Patents.

There is no evidence before the committee that the said instrument has been adopted or used by the government, nor is there any evidence before your committee that William A. Burt is dead, nor that the memorialists are his heirs. Nor is there any evidence before your commit-

tee that said instrument has been of any use to the government, nor that the alleged inventor was put to any expense in inventing or perfecting it.

The petition not being verified, and there being no evidence whatever of any facts alleged in said petition before your committee, the committee recommend that the claim be not allowed.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 41.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1878.—Ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 101.]

The Committee on Claims, to whom was referred the bill (S. 101) for the relief of Susan J. Berry, make the following report:

This bill proposes to pay Susan J. Berry, widow of Albert K. Berry, late second lieutenant in Company B, First Arkansas Infantry Volunteers, the amount of pay and allowances due said Berry as a second lieutenant from the 10th of June, 1864, to the 22d day of June, 1865.

The testimony is directly conflicting. Maj. James M. Johnson swears positively that said Berry was appointed and commissioned at his request second lieutenant on June 10, 1864, and *performed* all the duties of said office from that day until he was mustered out of service, August 10, 1865; but he says that said Berry was not *mustered* into the service as second lieutenant until the 22d day of June, 1865, and by reason of delay in said mustering into service said Berry only received the pay of a private soldier from June 10, 1864, to June 22, 1865.

Your committee addressed a letter to the Secretary of War on the subject, as to the facts.

A reply was received from E. D. Townsend, Adjutant-General, in which he says that "under General Order No. 48 of 1863, no enlisted man could enter upon duty as a commissioned officer until after the receipt of his commission or appointment, and thereafter it had to appear from record-evidence that he entered upon duty under the said commission or appointment."

He further says that said Berry was appointed second lieutenant as aforesaid by letter dated June 5, 1865, and mustered in as of that grade June 23, 1865, the date notification of his appointment was received.

General Townsend further accompanies his letter with a copy of the letter appointing said Berry, which shows he was appointed, as stated by General Townsend, on June 5, 1865.

General Townsend further says that no claim has ever been presented to that department for such allowance, "and if it had that it would necessarily have received an adverse decision of the department under the law and regulations of long standing and uniform application."

In view of the facts, the committee is constrained to regard the records of the War Department as the best evidence in the case, and therefore recommend the claim be rejected, the bill indefinitely postponed, and the committee discharged.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 42.

IN THE SENATE OF THE UNITED STATES

JANUARY 23, 1878.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 33.]

The Committee on Claims, to whom was referred the (S. bill 33) for the relief of J. A. Henry and others, have duly considered the same so far as the rights of Mr. Henry are affected, and submit the following report:

Your committee referred the bill to the Secretary of the Treasury, with a letter asking for information and facts touching the claims, and received from the Acting Secretary the following answer:

TREASURY DEPARTMENT,
November 1, 1877.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th ultimo, inclosing a copy of a bill for the relief of J. A. Henry, for rent of rooms, and calling for such information as may be in possession of this department touching the same.

The Third Auditor of the Treasury states that the claim of J. A. Henry, in his office, is for $52, being the amount of a voucher issued by J. G. Haskell, captain and assistant quartermaster, for rent of rooms from October 1 to November 30, 1864.

The claim was disallowed under provisions of act of Congress of February 21, 1867, which prohibits payment of such claims.

The bill is herewith returned as requested.

Very respectfully,

R. C. McCORMICK,
Acting Secretary.

Hon. F. M. COCKRELL,
United States Senate.

Your committee addressed another letter to the Secretary of the Treasury, asking for the vouchers and papers relating to said claim of J. A. Henry, and received from him all the vouchers and papers, and among them was the following account, to wit:

No. 22.

The UNITED STATES to J. A. HENRY, Dr.

1864, December 19, at Little Rock, Ark.	For rent for house, 4 rooms, quarters for teamsters of depot train, from October 1 to November 30, inclusive, being two months, at ($26) twenty-six dollars per month	$52 00
	Amount, fifty-two dollars.	

I certify that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, as per my report of "persons and articles" for period above mentioned.

See October roll No. 582, and November roll No. 619.

J. G. HASKELL,
Captain and Assistant Quartermaster.

The above account was on the usual blank, known as form No. 22, partly printed and partly written.

The action of the department upon said claim is shown by the following letter:

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE,
October 29, 1877.

Respectfully returned to Hon. H. S. French, Assistant Secretary of the Treasury. The claim of J. A. Henry in this office is for $52, being the amount of a voucher issued by J. G. Haskell, captain and assistant quartermaster, for rent of rooms from October 1 to November 30, 1864. The claim was disallowed under provisions of act of Congress of February 21, 1867, which prohibits payment of such claims. The papers in the case are herewith transmitted.

HORACE AUSTIN,
Auditor.

The Quartermaster-General's Department refused to pay the claim for the same reason. The act of February 21, 1867 (vol. 14, U. S. S. at Large, p. 397), provides that the act of July 4, 1864, "shall not be construed to authorize the settlement of any claim for supplies or stores taken or furnished for the use of, or used by, the armies of the United States, nor for the occupation of or injury to real estate, nor for the consumption, appropriation, or destruction of or damage to personal property by the military authorities or troops of the United States when such claim originated during the war for the suppression of the Southern rebellion in a State or part of a State declared in insurrection by the proclamation of the President of the United States dated July first, eighteen hundred and sixty-two, or in a State which by an ordinance of secession attempted to withdraw from the United States Government." On April 2, 1866, the President, by proclamation, declared that the insurrection in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, and Mississippi was at an end. Under said act of February 21, 1867, the departments have declined to pay any claims originating in the insurrectionary States from the beginning of the insurrection to the date of the President's proclamation declaring the insurrection at an end, whether such claims arose under contract or otherwise. And thus all persons whose just claims are based upon an express contract between themselves and the proper officers of the government, made within the limits of the insurrectionary States within the period above named, are forced to appeal to Congress for relief. This claim arose out of a contract between the claimant and the proper quartermaster, was duly signed and certified and reported as required by regulations by such quartermaster, and claimant is certainly entitled to the amount specified in his said contract, $52.

Your committee report a substitute for said bill, and recommend the passage of the substitute so reported.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 43.

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 196.]

The Committee on Public Lands, to whom was referred the bill (S. 196) to further define the rights of persons with respect to homestead entries on the public domain, have had the same under consideration, and submit the following report:

The purpose of the bill is apparent from an examination of its provisions. It is designed to remedy the hardship which frequently results, from the operation of the law as it now stands, to the party who, by purchase of the right of a previous settler, or by contest, secures the restoration of a tract of land to the public domain, and again subject to entry. The inducement to secure this cancellation, or to contest the right of a person who has not complied with the law, is the hope of securing the land for himself. This is practically prevented by the law as it now stands, for, after the receipt of the notice of cancellation at the local land-office, the first person applying is entitled to enter the land. This bill, if it becomes a law, will give to the successful contestor notice of the success of his contest, and thirty days' time in which to avail himself of the privilege of applying to enter the land which, as the result of his act, has been restored to the public domain.

The committee recommend the passage of the bill.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 44.

IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1878.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 199.]

The Committee on Claims, to whom was referred the bill (S. 199) for the relief of L. H. and G. C. Schneider, have considered the same, and submit the following report:

Maj. A. H. Bowman was an Army officer detailed as superintendent of the Treasury extension in 1859, and gave bonds as disbursing-agent. He had an assistant, Major French, who gave no bonds. A deficit was created in the accounts of Major Bowman by the raising of vouchers by his assistant, Major French. As soon as it was discovered Major French was arrested and confined in the jail in the District of Columbia. He mortgaged a house and lot owned by him on Rock Creek to make good any deficit that might appear in the accounts of Major Bowman. He was brought to trial about the beginning of the war; feigning sickness, he was allowed to go home from the court-house to spend the night with his family, and escaped during the night, and has never since been seen in Washington.

To cover the deficit in his accounts, caused by the raising of vouchers by Major French, the following course appears to have been pursued by Major Bowman: He required all the contractors for furnishing material, &c., for the Treasury extension—the claimants were contractors—to pay a *pro rata* amount in monthly installments until the deficiency was made good. He took the money, amounting in the aggregate to $2,692.99, and deposited the same in the Treasury of the United States to his credit as trustee. Major Bowman was soon after relieved from duty in Washington and ordered to West Point. On August 21, 1860, this money was checked out of the Treasury, the check being drawn in favor of the Treasurer of the United States, who deposited the proceeds to the credit of Major Bowman to close his accounts, as shown by report of the First Auditor, No. 138,752. Some of the deposits made by Major Bowman, as trustee, bear even date with the receipts granted by him to Messrs. L. H. and G. C. Schneider, the claimants. The aggregate amount of the receipts held by L. H. and G. C. Schneider did not amount to $400, the sum they now claim to have paid to Major Bowman. They only show that the sum of $236.39 was paid by them. After Major Bowman had closed his accounts with the United States the house and lot owned by Major French, on Rock Creek, were sold under mortgage, and the proceeds paid into the supreme court of the District of Columbia. By di-

rection of the court the proceeds have recently been paid over to the legal representatives of Major French, Major French being then dead.

In the opinion of your committee the money was fairly acquired by the government, and parted with by the parties who paid it to make good a defalcation by a public officer, and we think the payment ought to be allowed to remain. It was fairly acquired by the government, and was not wrongfully taken from these claimants, and in the opinion of your committee the government is not either legally or equitably bound to pay it.

We therefore recommend that the bill be indefinitely postponed, and the committee discharged from its further consideration.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 45.

IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1878.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Angeline Logan, have considered the same, and submit the following report:

The petitioner is a colored woman, and she claims in her verified petition that on or about the 1st of June, 1864, she was employed by Dr. Roland, then in charge of the Federal hospital at Van Buren, Ark., at $15 a month, and that she continued in such employment under such hiring until about the middle of March, 1865.

The petitioner further states in her petition that she has been paid $15 for her said services, and no more. There is no evidence before the committee as to the hiring, except the statement of the claimant herself. There is no evidence other than claimant's statement that she was actually employed in and about the hospital for about five months.

The committee are advised by a communication from the Surgeon-General that there is no evidence on file in his office of the employment or hiring of said claimant. The evidence of Dr. Roland, who was in charge of the hospital at the time the claimant states she was hired, has not been taken, nor has the evidence of any of Dr. Roland's successors in charge of the hospital while petitioner claims to have been employed been taken. The committee are aware that large numbers of colored persons flocked to the Federal armies as they advanced into the insurrectionary States; that many of these persons were employed by Federal officers, and many of them followed the armies as mere camp-followers without being employed by any one.

The committee give great weight to the fact stated by the Surgeon-General that there is no evidence in his office of the hiring of claimant. She doubtless performed some service; but whether for the government or for the officers does not satisfactorily appear.

Your committee therefore recommend the rejection of the claim.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 46.

IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1878.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 633.]

The Committee on Claims, to whom was referred the bill (S. 633) for the relief of R. W. Corbin and others, have duly considered the same, so far as the rights of Robert Stevenson are affected, and submit the following report:

Your committee referred the bill to the Secretary of the Treasury, with a letter asking for information and facts touching the claim, and received from the Acting Secretary the following answer:

TREASURY DEPARTMENT, *November* 1, 1877.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th ultimo, inclosing a copy of a bill for the relief of Robert Stevenson for rent of a house used as a blacksmith-shop, and calling for such information as may be in possession of this department touching the same.

The Third Auditor of the Treasury states that the claim of Robert Stevenson in his office is for $54, being the amount of a voucher issued to him by B. M. Gardner for rent of a house used as blacksmith-shop from May 18 to July 10, 1865.

The claim was disallowed under provisions of act of Congress of February 21, 1867, which prohibits payment of such claims.

The bill is herewith returned as requested.

Very respectfully,

R. C. McCORMICK,
Acting Secretary.

Hon. F. M. COCKRELL,
United States Senate.

Your committee addressed another letter to the Secretary of the Treasury, asking for the vouchers and papers relating to said claim of Robert Stevenson, and received from him all the vouchers and papers, and among them was the following account, to wit:

No. 22.

The United States to Robert Stevenson, Dr.

1865. July 10. Grenada, Miss.—For rent of house used as blacksmith-shop, from May 18, 1865, to July 10, 1865, inclusive—one month and twenty-four days, at $30 per month $54 00

$54.00 (fifty-four dollars).

Approved.

OTTO FUNKE,
Colonel Eleventh Illinois Cavalry, Commanding Post, Grenada, Miss.

I certify that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, as per my report of persons and articles for months of May, June, and July, 1865.

B. M. GARDNER,
Lieutenant Fourth Illinois Cavalry, and Acting Assistant Quartermaster.

The above account was on the usual blanks known as Form No. 22, partly printed and partly written.

The action of the department upon said claim is shown by the following letter, among said papers, to wit:

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
March 8, 1862.

A certified account in favor of Robert Stevenson for rent of a house at Grenada, Miss., in 1865, stated at $54, is presented for payment.

The claim having originated in an insurrectionary district during the late war, is barred from settlement by act of Congress of February 21, 1867. It is, therefore, disallowed.

ALLAN RUTHERFORD,
Auditor.

The Quartermaster-General's Department refused to pay the claim for the same reason.

The act of February 21, 1867, (vol. 14, Stat. at L., p. 397,) provides that the act of July 4, 1864, "shall not be construed to authorize the settlement of any claim for supplies or stores taken or furnished for the use of or used by the armies of the United States, nor for the occupation of or injury to real estate, nor for the consumption, appropriation, or destruction of or damage to personal property by the military authorities or troops of the United States, where such claim originated during the war for the suppression of the southern rebellion, in a State or part of a State declared in insurrection by the proclamation of the President of the United States, dated July first, eighteen hundred and sixty-two, or in a State which, by an ordinance of secession, attempted to withdraw from the United States Government."

On April 2, 1866, the President by proclamation declared that the insurrection in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, and Mississippi, was at an end.

Under said act of February 21, 1867, the departments have declined to pay any claims originating in the insurrectionary States from the beginning of the insurrection to the date of the President's proclamation declaring the insurrection at an end, whether such claims arose under contracts or otherwise. And thus all persons whose just claims are based upon an express contract between themselves and the proper officers of the government, made within the limits of the insurrectionary States within the period above named, are forced to appeal to Congress for relief. This claim arose out of a contract between the claimant and the proper quartermaster, was duly signed and certified by such quartermaster, and approved by his commanding officer, and claimant is certainly entitled to the amount specified in his said contract, fifty-four dollars.

Your committee report a substitute for said bill and recommend the passage of the substitute so reported.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 47.

IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1878.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 634.]

The Committee on Claims, to whom was referred the bill (S. 33) for the relief of R. W. Corbin and others, have duly considered the same, so far as the rights of L. T. Green are affected, and submit the following report:

Your committee find that a bill (S. 1059) was introduced during the second session of the Forty-fourth Congress for the relief of L. T. Green and others, asking for the same relief as is asked for in the present bill; that said bill was, on the 8th of December, 1876, referred to the Committee on Claims, and that your committee then called upon the Secretary of the Treasury for certified copies of the original papers on file in his department relating to the said claims; that in response to said call they received from the Secretary copies of all the papers in the said claim, and among them the following account, to wit:

The United States to L. T. Green.

1866.		DR.
January 25.	For rent of one house, three rooms, from August 1, 1865, to October 31, 1865, both days inclusive, making three months, at fifteen	
No. 170.	($15) dollars per month, as reported on Form No. 2, No. 346.....	$45 00
	Also for rent of one house, one room, from August 1, 1865, to October 31, 1865, both days inclusive, making three months, at two ($2) dollars per month, as reported on Form No. 2, No. 347.....	6 00
	Fifty-one dollars.....	51 00

I certify that the above account is correct and just; that the services were rendered as stated; that they were necessary for the public service, and hired in accordance with General Orders No. 6, dated Washington, July 25, 1865.

JAMES T. CLARK.

The action of the department is shown by the following decision of the Auditor among the said papers:

TREASURY DEPARTMENT,
THIRD AUDITOR'S OFFICE,
March 8, 1872.

Messrs. Tucker and Sills present for payment a certified account in favor of L. T. Green, of Chattanooga, Tenn., for rent of property at that place during the year 1865, stated at $51.

The claim, having originated during the late war in an insurrectionary district, is barred from settlement by act of Congress of February 21, 1867. It is therefore disallowed.

ALLAN RUTHERFORD,
Auditor.

No action was taken on the claim during the Forty-fourth Congress, and it was again referred to your committee at the first session of the

present Congress, together w ith the papers previously received from the Secretary of the Treasury.

Your committee again addressed the Secretary, and received the following reply from the Assistant Secretary:

TREASURY DEPARTMENT, *November* 1, 1877.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th ultimo, inclosing a copy of a bill for the relief of L. T. Green for rent of houses in Chattanooga, Tenn., and calling for such information as may be in possession of this department touching the same.

The Third Auditor of the Treasury states that the claim of L. T. Green is for $51, being the amount of a voucher (in duplicate) issued to him by James T. Clark, quartermaster (of what organization is not stated), for rent of two houses in Chattanooga, Tenn., August 1 to October 31, 1865, three months, one of three rooms at $15 per month, the other of one room, at $2 per month.

The Quartermaster-General stated that the quartermaster had regularly reported the hiring of these houses in his monthly report.

The claim was disallowed, under the provisions of the act of February 21, 1867 (see Appendix to Revised Statutes, page 1434, section 300, B), prohibiting settlement of claims growing out of the occupation of or injury to real estate when originating during the rebellion, and in a State or part of a State which had been proclaimed in insurrection by the proclamation of July 1, 1862.

The bill is herewith returned, as requested.

Very respectfully,

R. C. McCORMICK,
Acting Secretary.

Hon. F. M. COCKRELL,
United States Senate.

The act of February 21, 1867 (vol. 14, Stat. at L., p. 397), provides that the act of July 4, 1864, "shall not be construed to authorize the settlement of any claim for supplies or stores taken or furnished for the use of, or used by, the armies of the United States, nor for the occupation of, or injury to, real estate, nor for the consumption, appropriation, or destruction of, or damage to, personal property by the military authorities or troops of the United States, where such claim originated during the war for the suppression of the southern rebellion, in a State or part of a State declared in insurrection by the proclamation of the President of the United States, dated July first, eighteen hundred and sixty-two, or in a State which, by an ordinance of secession, attempted to withdraw from the United States Government."

On April 2, 1866, the President, by proclamation, declared that the insurrection in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, and Mississippi was at an end.

Under said act of February 21, 1867, the departments have declined to pay any claims originating in the insurrectionary States from the beginning of the insurrection to the date of the President's proclamation declaring the insurrection at an end, whether such claims arose under contracts or otherwise; and thus all persons whose just claims are based upon an express contract between themselves and the proper officers of the government, made within the limits of the insurrectionary States within the period above named, are forced to appeal to Congress for relief.

This claim arose out of a contract between the claimant and the proper quartermaster, was duly signed, certified, and reported by said quartermaster, and claimant is certainly entitled to the amount specified in his said contract, fifty-one dollars.

Your committee report a substitute for said bill, and recommend the passage of the substitute so reported.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 48.

IN THE SENATE OF THE UNITED STATES.

JANUARY 31, 1878.—Ordered to be printed.

Mr. MCMILLAN, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the memorial of Elisha Basse, praying compensation for injury done to his property near Brownsville, Tex., by the military authorities of the United States, between November, 1863, *and April* 12, 1867, *have had the same under consideration, and submit the following report:*

Previous to the war of the rebellion the memorialist, Basse, was the owner of certain premises in the city of Brownsville, Tex., known as "Shannondale," and occupied the same as his homestead, and has ever since been and now is the owner of the same premises, which contain about ten acres of land fronting on the Rio Grande. In April, 1861, Basse removed to the State of California, and placed the premises in charge of one Mifflin Kennedy, and, remaining in California during the war, returned to said city of Brownsville in 1867.

At the time the said premises were so placed in the charge and care of said Kennedy there were erected thereon numerous buildings, to wit, two dwelling-houses, the residence of said Basse, of the value of $3,500; one small house for servants, of the value of $500; stable, and several outhouses.

On said premises were also an orchard of bearing tropical fruit-trees, about fifty in number, and a large grapery, an extensive flower-garden and shrubbery, filled with rare plants and shrubs, and a large number of old and valuable shade-trees.

There was also on said premises and near the residence a valuable well, with the necessary fixtures attached; also, about twenty thousand building-brick.

At the time Basse removed to California, in April, 1861, and at the time said premises were placed in the charge and care of said Kennedy, the improvements above mentioned were in good order and the grounds in a high state of cultivation.

In the absence of Basse, the premises were occupied by Kennedy as a summer residence.

In November, 1863, upon the arrival at the city of Brownsville of the military expedition to the Rio Grande, under Maj. Gen. N. P. Banks, the proper military authorities of the United States took possession of the said premises and occupied the same for military purposes, and continued to so occupy the same until the 12th day of April, 1867, except while the United States forces were absent from the frontier. During the greater part of such occupation said premises were used for the

purpose of a general hospital. During such occupation the buildings were razed and destroyed, except one small house left in a dilapidated condition, the materials used for military purposes or destroyed, the fences and fencing materials totally destroyed, and all the improvements upon the said premises, together with all the personal property thereto belonging, were destroyed, carried away, or appropriated by the said military authorities, leaving said premises completely desolate and uninhabitable, except the dilapidated small house mentioned above, and a few scattering shade-trees in its immediate vicinity; and the said military authorities constructed upon the said premises extensive fortifications or earth-works, thereby greatly injuring said lands and involving great expense to the claimant in leveling said earth-works and restoring said lands to a condition in which they may be used for agricultural or other useful purposes.

The claimant states the value of the property described and the amount of damages he has suffered on account of the destruction of property and injury to his said premises in various items, amounting in all to the sum of $14,425.

There is no testimony tending to show that the occupation of the premises by the military authorities, and the injury to the property as stated by the witnesses, was not a military necessity on the part of the United States forces.

The petitioner's loyalty to the United States Government before, during, and since the war is stated by all the witnesses.

This, then, is a case where the premises occupied and injured were situate in a State in rebellion at the time of such occupancy and injury, but owned by a person who was a loyal citizen of the United States; such occupation and injury being a military necessity; for, in the absence of all evidence to the contrary, such is the presumption.

The rebellion was so far successful as to result in the temporary organization of a government embracing all the "Confederate States," among others the State of Texas, in which the premises in question are situate.

This Confederate Government, by the action of the United States Government, became entitled to all the rights and subject to the responsibilities of a belligerent nation in war, as did also the United States Government.

The provision of the Constitution of the United States requiring just compensation for private property taken for public use does not apply to a case like the one under consideration.

The law of nations as to belligerent nations in war must regulate and determine the rights of the claimant.

The rule, as we understand it, is that for property within an enemy's country taken or destroyed in time of war, as a military necessity, the owner, whether actually an enemy or a legal citizen or subject, is not entitled to compensation. (The Gray Jacket, 5 Wall., 342.)

We take notice of the fact that the President of the United States by his proclamation dated the 20th day of August, 1866, declared that the insurrection which had existed was at an end, and that the claimant's witnesses testify that the United States forces took possession of his premises about the 7th of November, 1863, and that said premises remained in the possession and occupation of said military authorities until the 12th of April, 1867, except while the United States forces were temporarily absent from that frontier.

It is urged on behalf of the claimant that by virtue of the President's proclamation the war ended on the 20th day of August, 1866, and that

the government is liable for the use and occupancy of the premises from that time until the 12th of April, 1867.

The proclamation of the President declaring the insurrection at an end recited, as one of the grounds upon which that proclamation was based, that adequate provision had been made by military orders to enforce the execution of the acts of Congress, aid the civil authorities, and secure obedience to the Constitution and laws of the United States within the State of Texas, if a resort to military force for such purpose should at any time become necessary.

Emerging from a war of such a character as the rebellion, the government was entitled to a reasonable time to withdraw its forces from claimant's premises, and your committee are of opinion that, under all the circumstances, no liability was incurred by the government, conceding the possession to have been retained till the 12th day of April, 1867. (Lawrence's Rep., 208, 209.)

We are therefore of opinion that upon the facts here shown the government is not liable, and recommend that the claim be disallowed and that this report be adopted.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 49.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 82.]

The Committee on Military Affairs, to whom was referred the bill (S. 82) for the relief of Gustav A. Hesselberger, have had the same under consideration, and submit the following report:

In 1867 Gustav A. Hesselberger was a first lieutenant in the Army, stationed at Fort Dodge, Kansas, and was on duty as acting assistant quartermaster and acting commissary of subsistence, and was also occasionally absent on duty with his company. He was mustered out of the service January 1, 1871, in pursuance of the act of Congress of July 15, 1870. By a statement from the Third Auditor, to be found among the papers in the case, it appears that Hesselberger is indebted to the United States in the sum of $3,186.26, from which he asks relief.

The affidavit of Hesselberger sets forth, substantially, that while acting as assistant quartermaster in the year 1867, he was in charge of the construction of the post of Fort Dodge, and had a large number of citizen employés on his rolls, and also had in charge the purchase of construction materials as well as quartermaster's supplies for the troops at the post. As acting commissary of subsistence he also had charge of the issue of commissary supplies to the troops and employés at the post. In addition to these duties he was occasionally sent away on detached service, and upon one occasion, in October, 1867, was ordered to be in attendance upon the commissioners who were negotiating a treaty with certain hostile Indian tribes on Medicine Lodge Creek, one hundred and twenty miles from his post, where he was detained some twenty days. During all his absence he states that he was compelled to intrust the public property for which he was responsible to his clerk. Charged with these manifold duties and the disbursement of large sums of money, he was only allowed one citizen clerk, assigned to him by his superiors, although he alleges that he frequently made application for others, which applications were refused. During the months of July, August, and September the scourge of cholera broke out at the post and prevailed with great fatality. At one period all the commissioned officers of the Regular Army at the post were prostrated, and deaths were of such frequent occurrence that great demoralization ensued, and many of the men deserted. As quartermaster, Hesselberger was charged with the duty of burying the dead, and this, with the care of the sick, consumed the greater portion of his time. He himself was sick with the disease for five days. He states that during this period the soldiers and employés

evinced a disposition to take and use public property in any way that suited their convenience, and the most constant watchfulness was necessary to prevent serious loss. For the reasons stated he found it impossible to exercise that care in the preparation of his returns and reports necessary to prevent error.

Hesselberger states that during the months of July, August, September, and November, 1867, and under the circumstances described, he made certain overpayments, amounting to $270, and that this occurred by computing the pay accounts for a longer period than the men actually worked. He also states that during the same months his clerk, one John Mullgrove, and one E. P. Wheeler, a subcontractor for furnishing hay to the post, conspired together and issued a number of quartermaster's checks, to which Mullgrove forged his (Hesselberger's) signature, on the assistant treasurer at Saint Louis and the First National Bank of Leavenworth, on which payments were made to the amount of about $2,800. Hesselberger, as he alleges, was in the habit of paying employés in checks, which were accepted by the traders at and near the post. They passed as current funds in the vicinity, and frequently they were not presented for payment for several months after they were issued. Mullgrove and Wheeler, it is claimed, taking advantage of this state of affairs, forged checks in small amounts, corresponding to the payments made to employés, and paid them out in trade. As many of these checks were current for a long time, and as the monthly bank statement simply gave the amount of the checks paid each day, without furnishing the number of each and the name of the person to whom paid, it was impossible to discover the forgeries from the statements, and they were in fact not discovered until some time during the following year, when the checks were returned to him upon the close of his business. When the genuine checks were presented they were protested for want of funds.

Hesselberger sets forth in his affidavit that immediately upon the discovery of the forgeries he reported the fact to the chief quartermaster of the department, and went before a United States commissioner and procured the arrest of Wheeler, who was, however, discharged upon examination, because of a failure to connect him directly with the crime, although the fact of the forgery was clearly shown. He also went before the grand jury at Topeka, and endeavored to have bills of indictment found against the parties. The clerk, Mullgrove, had fled the country before the discovery of his crime, and is reported to have died soon after in New Mexico. Upon his discharge by the commissioner, Wheeler also left the country.

Hesselberger further states that in 1872 he placed all the papers, including such of the forged checks as had come into his possession, his check-stubs, &c., in the hands of E. N. O. Clough, an attorney of Leavenworth, Kans., whom he had employed to obtain relief for him. These papers are believed to have been lost on the occasion of their hasty removal to escape a fire in a structure adjoining the office of Mr. Clough. At all events, they were not to be found among the papers of Mr. Fitzwilliam, an attorney, to whom the case was afterward confided, and who has since died.

Henry Inman, who was captain and brevet-lieutenant colonel in the Quartermaster's Department of the Regular Army from July, 1867, to 1869, and who was chief quartermaster of the district of the Upper Arkansas, which district included the post of Fort Dodge, states that Lieutenant Hesselberger reported to him, and that all requisitions for funds and supplies, and for authority to employ civilians, were made

directly to him. He corroborates the testimony of Hesselberger as to the general condition of affairs at Fort Dodge, the construction of the post, the prevalence of cholera, &c. He states that the duties were much too laborious for him to perform with the aid of a single clerk, and that Hesselberger frequently asked for additional clerical aid in making up his returns and reports, which, under existing orders, could not be furnished. He also testifies as to the frequent absence of Lieutenant Hesselberger on detached service, leaving the public property in charge of his clerk. He regarded Hesselberger as one of the most efficient officers in the service, and testifies that Generals Hancock, Davidson, Sully, and Gibbs, who successively visited the post on inspection service, spoke of him in the highest terms of praise. Colonel Inman states that Lieutenant Hesselberger reported to him the fact of the forgeries as soon as they were discovered, and made every effort to bring the guilty parties to justice.

John W. Hall and Capt. David L. Payne, who were somewhat familiar with affairs at Fort Dodge in 1867, corroborate the general statement of those affairs by Lieutenant Hesselberger, especially as to the construction of the post, the cholera epidemic, the arduous labors of the quartermaster, and both bear testimony to the good conduct, zeal, efficiency, and fidelity of that officer.

Lewis Hauback, the commissioner before whom Wheeler was brought, certifies to the fact of the examination, and that the check upon which the prosecution was founded was clearly proven a forgery, but that there was not sufficient evidence to connect Wheeler with the crime. He asserts that Lieutenant Hesselberger was very active in ferreting out the matter.

A. L. Williams, then assistant United States attorney for the district of Kansas, and afterward attorney-general of the State, also certifies to Hesselberger's zeal in the endeavor to bring the guilty parties to justice.

Henry Douglass, lieutenant-colonel Fourteenth Infantry, also furnishes a statement in behalf of Lieutenant Hesselberger. He commanded the post during the time when Hesselberger was stationed there. He commends his zeal, efficiency, and integrity, and generally corroborates his statements. He caused the arrest of Wheeler for forgery, and states that though there was no doubt of Wheeler having uttered a forged check, there was no evidence to connect him with the forgery. He saw several checks which were palpable forgeries, and states that it was generally conceded that the clerk in the post adjutant's office was the criminal. This clerk had deserted prior to Wheeler's arrest. He thinks that Lieutenant Hesselberger did all he could to bring the guilty parties to justice.

General Sherman, who was at Fort Dodge in the autumn of 1367, states that he recollects that Lieutenant Hesselberger had been down to the Kiowa camp, more than a hundred miles south of the post, and brought in two young women named Box, white captives in the hands of the Kiowas. The General says: "I saw the girls and a delegation of the Kiowas at the time. All the officers at the post gave Lieutenant Hesselberger great credit for courage in rescuing these captives, who must still be living in Texas."

Among the papers are exemplified copies of orders taken from the post records at Fort Dodge, showing the frequent absences of Lieutenant Hesselberger from that post on official duty. Also, a letter, dated December 27, 1867, from Brevet Maj. Gen. J. W. Davidson, acting inspector-general to General D. H. Rucker, then acting Quartermaster-General, recommending Lieutenant Hesselberger for an appointment as

assistant quartermaster in the Army, stating that he regarded him as excellently qualified for the position, and commending, in the highest terms, his personal character and his conduct while acting assistant quartermaster at Fort Dodge.

The evidence submitted to the committee is entirely of an *ex parte* character, and is not so exact and complete as would be necessary to substantiate a claim in a court of justice. The nature of the facts and circumstances alleged in behalf of the claimant is such, perhaps, as to make the absolute proof of them practically impossible. The absence of the material papers, the alleged forged and fraudulent checks, is to be noted, and the committee are not entirely satisfied that their loss or destruction has been properly established.

The committee are satisfied that while the evidence is by no means conclusive, it furnishes probable grounds for belief that the claim preferred is an equitable one. Upon the testimony before them they are not prepared to find that any specific sum should be credited to the account of Lieutenant Hesselberger, but they are of opinion that he should be given such a status before the department as will enable him to present his evidence there and receive such benefit from it as its nature may entitle him to.

The bill makes provision for this further investigation, and the committee recommend its passage, with an amendment.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 50.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bills S. 17 and S. 198.]

The Committee on Pensions, to whom were referred the bills (S. 17 and S. 198) amending the laws granting pensions to the soldiers and sailors of the war of 1812 and their widows, together with sundry petitions and memorials on the same subject, have given the same careful consideration, and submit the accompanying bill and recommend its passage:

The amendments to the existing laws refer mainly to the following provisions:

1. By the present law pensions are provided only for such soldiers and sailors as served for the period of sixty days. The bill reported proposes to grant pensions to all who served fourteen days and were honorably discharged. The committee believes that as fourteen days' service was deemed sufficient to entitle the soldier or sailor to bounty-land, and as his patriotism and readiness to risk his life in the service of his country are as fully evidenced by the shorter as the longer term of service, no reason in equity or justice exists why a pension shall not be granted for fourteen days' service.

2. Under the present law only such widows of soldiers of the war of 1812 are entitled to pensions as were married *prior to the treaty of peace.* The amendment proposed by the committee provides for the payment of a pension to all surviving widows who have remained unmarried since the death of the husband on account of whose services in the war of 1812 a pension is claimed.

This extension of the benefits of the law is, in the opinion of the committee, warranted by the fact that pension laws are designed as a reward for faithful service of the soldier or sailor by supplying an annual income which will secure him from actual suffering during his life, and in case of death by extending this aid to his widow and infant children. Whether this widow was married before or after the conclusion of the treaty of peace should make no difference, as she is none the less his widow in the one case than in the other.

An additional claim may be found in the fact that the affectionate ministrations of a devoted wife during the declining years of an infirm and too often destitute and suffering soldier should receive some recognition on the part of the government created and established by their valor and services in the field.

3. The third amendment proposes to restore to the pension-rolls the names of all now surviving which were stricken from them in consequence of alleged participation in the rebellion.

This amendment is deemed judicious and wise, apart from the fact that few, if any, persons of this class took any active part in the civil war, by reason of their age and infirmities. The discrimination of the

xisting law can scarcely be reconciled with the policy which has permitted officers and soldiers who bore prominent and active parts in that war to participate on terms of equality with other citizens in all the duties, responsibilities, and honors incident to official position.

The fundamental principle of all republican government is absolute equality between its citizens in all their political relations. The war has long passed away, and it is full time that the enmities and animosities engendered thereby, and the discriminating legislation incident thereto, shall also disappear. The beneficiaries under the amendments proposed are few in number, aged, generally poverty-stricken, and cannot long prove a source of expense to the country. The expenditures under these amended provisions will not be large. The Commissioner of Pensions, in response to the inquiries of the committee, submits the following estimates:

I am unable to state, without extensive search, how many names of those dropped from the roll under the provisions of the act of March 4, 1862, were pensioned for service in the war of 1812. Exclusive of the revolutionary pensioners, the number dropped thereunder was 1,441, which included pensioners of the war of 1812, the Indian wars, and the war with Mexico. Of this number about 1,000 have been restored. The conclusion is justified that out of the remaining 441 not more than 200 were of the war of 1812. Probably not more than 20 per cent. of these, or 40 persons, now survive.

Of those pensioned under the act of February 14, 1871, not more than 150 have been dropped for disloyalty, and of these not one-half are now supposed to survive. Therefore, not to exceed 100 names would be added to the rolls by their restoration, and about $9,600 per annum would be required to pay them.

2. "What addition would be made to the number, and what would be the amount involved, if the term of service were decreased to fourteen days." Basing my calculation upon our experience under the act of February 14, 1871, which verified the original estimate that 40,133 would apply thereunder, I find that out of 454,054 enlistments for more than fourteen days 61,372 soldiers, and their widows, will apply, or 21,239 in addition to those falling within the original provision. There are three items to be deducted, however, which will materially reduce this number, viz:

Those deceased since the date of the original calculation through which the present result is reached, estimated at 60 per cent., or 12,743, leaving 8,496 as the present number of survivors.

The number of enlistments for short terms by the same persons, which, combined, equaled 60 days, they having been pensioned, estimated at 20 per cent. of the survivors, or 1,699, leaving 6,797 as the number who, at this time, would probably be entitled to pensions, less, finally, those who will fail to apply, or, having applied, from various causes will fail to become pensioners, which I estimate at 33⅓ per cent., or 2,266. Deducting that number, leaves 4,531 as the number who would become pensioners, which would involve an annual payment of $434,976 if they all became pensioners at once and so continued.

The fact would be that a portion only would become pensioners the first year, and many of these would die before the remainder could be placed on the roll.

I conclude that an appropriation of $200,000 would be required, and this would rapidly decrease each succeeding year.

3. Also, what amount would be involved by the addition to the roll of widows (of 1812 soldiers) who married prior to the year 1850. This office is without reliable data for calculating the number who would be benefited by such a provision. From the best attainable information, I am of the opinion that they would approximate 13,000 in number, and involve an annual cost to the roll of $1,248,000, subject to similar modifications to those suggested in reference to the payment to the soldiers at the close of the last paragraph.

The committee are inclined to the opinion that the last estimate, which is confessedly arbitrar , and founded upon no specific or authentic data, is too large.

The lapse of time, and the casualties of disease, which are greater in women than in men, would indicate this, even upon the assumption that all the soldiers married, which, of course, was not the case. A sum, therefore, materially less than that mentioned would be sufficient to meet the additional expense to the government.

The committee, therefore, recommend the passage of the bill as reported.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 51.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred Senate bill No. 323, granting a pension to Elizabeth Totten, widow of the late Commodore Benjamin J. Totten, United States Navy, find, on examination, that no application for a pension has ever been made to the Pension Bureau, and, in accordance with the custom of the committee in similar cases, ask that the application be referred to the Commissioner of Pensions.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 52.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 647.]

The Committee on Pensions, to whom was referred the memorial of Lieut. William B. Whiting, United States Navy, with the papers accompanying, report as follows:

That the said Whiting entered the naval service of the United States in the year 1829 as midshipman; was promoted to be a lieutenant on the 8th day of September, 1841, and was placed on the reserved list, as a lieutenant, under the act of February 28, 1855, in consequence of physical injury, for which he now asks a pension. That though he has subsequently been promoted to the various ranks of commander, captain, and commodore, he receives no additional pay in consequence of such promotion. That the injury received was under the following circumstances: "While residing in Washington, in 1852, then holding the rank of first lieutenant in the Navy, he was notified by the Secretary of the Navy, in person, that he had been selected as hydrographer to the Japan expedition, then being organized under Commodore Perry. That he received a verbal permit to visit New York and other places to arrange his business preparatory to leaving, with *directions* to report to him at Annapolis as soon as his arrangements were perfected. Having completed these arrangements, and *while on his return*, in *obedience to these orders*, he received an injury of the spine by the accidental upsetting of a carriage or stage, which prevented his joining his vessel; and though subsequently able to join another vessel of the squadron, he was not able to act as hydrographer, and, his disability progressively increasing, ultimately caused his retirement from active service by the action of a naval board of inquiry."

Since February 5, 1872, he has been unable to stand on his feet; has to be lifted from his bed to a chair, and requires the constant attendance of a third person.

Two questions present themselves for decision: First. Can an officer on the retired-list, drawing the pay of his rank, be entitled to a pension as an invalid? Section 4724, Revised Statutes, declares that "no person shall draw both a pension as an invalid and the pay of his rank or station, *unless* the disability for which the pension is granted be such as to occasion his employment in a lower grade, *or in the civil branch* of the service."

This officer, though promoted to be a commander from the 21st of July, 1861, was employed as a lieutenant, and paid as a lieutenant only

from that date to February 19, 1863, in consequence of the injury for which he asks a pension; and though promoted to be a commodore from the 22d day of April, 1870, was for the same cause employed and paid only as a captain from that date to October 1, 1871, since which time he has not been employed at all; and since February 5, 1872, has been incapable of employment, and consequently receives only the pay of a lieutenant on the retired-list. This history of the case seems to your committee to bring it within the provisions of the law above quoted, which brings us to the *second* question: Was this injury received "in the line of duty?"

The Commissioner of Pensions says it was not so received, but when the officer was "on leave" attending to his own private affairs. The evidence, however, establishes the fact that this business was completed, and that the applicant was on his way, in obedience to the verbal orders of the Secretary of the Navy, when the injury was received.

Section 4694, Revised Statutes United States, thus defines the "line of duty":

> At the time borne on the books of some ship or other vessel of the United States, at sea or in harbor, actually in commission, or was at some naval station, or on his way, by direction of competent authority, to the United States, or to some other vessel or naval station or hospital.

This officer claims to have been "on his way" to join the Japan squadron, by orders of competent authority, to wit, the Secretary of the Navy and the commander-in-chief of the squadron.

In addition to this, in 1873, the Navy Department, in carrying into effect the law of Congress, giving to retired naval officers 75 per cent. of the pay for sea-service of the grade they held when retired, to such as were retired at their own request, or on account of age or length of service, or for injuries sustained in the line of duty and incidental to such duty, but witholding it from those retired for injuries contracted from other causes, *held that the injuries for which Lieutenant Whiting was retired occurred in the line of duty*, and were incidental to his sea-service, thus adjudicating this question in favor of the applicant.

The committee, therefore, recommend the passage of the accompanying bill for the relief of the petitioner.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 53.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 413.]

The Committee on Pensions, to whom was referred Senate bill No. 413, providing for an increase of the pension of Laurena C. P. Haskins, widow of Hiram D. Haskins, late second lieutenant Company C, One hundred and tenth Regiment New York Volunteers, have examined the papers connected with the case and find that under existing laws the increase of pension cannot be allowed, because at the time the injuries were received for which Hiram D. Haskins was granted a pension he was an enlisted man, and though subsequently promoted to the rank of second lieutenant such promotion cannot, under the provisions of the pension laws, affect the amount of pension to which he or his widow is entitled.

The committee therefore report adversely on the bill, and ask that its further consideration be indefinitely postponed.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 54.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1878.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1104.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1104) for the relief of John Pulford, have duly considered the same, and submit the following report:

During the Forty-fourth Congress a bill for the relief of John Pulford was referred to this committee, and this committee, through Mr. Cockrell, submitted the following report thereon (No. 682):

This bill is intended to restore John Pulford to the rank held by him in the United States Army prior to the operation of the act of Congress entitled "An act for the relief of General Samuel Crawford, and to fix the rank and pay of the retired officers of the Army."

The application of Pulford for relief comes through the regular military channels. Your committee addressed a letter of inquiry to the Secretary of War, and through him received the following reply from the Adjutant-General, to wit:

"ADJUTANT-GENERAL'S OFFICE, *January* 29, 1877.

"SIR: Referring to the request of the Senate Military Committee, dated the 24th instant, for copy of the proceedings of the retiring-board, &c., in the case of Lieut. Col. John Pulford, retired, I have the honor to submit the following report from the records, touching the military services and retirement of the officer named:

"John Pulford entered the service as first lieutenant Fifth Michigan Volunteers, August 28, 1861, and was promoted, in that regiment, captain, May 15, 1862; major, January 1, 1863; lieutenant-colonel, May 3, 1863; and colonel, July 12, 1864. He was mustered out as colonel July 5, 1865. He was brevetted brigadier-general of volunteers March 13, 1865, for good conduct and meritorious services during the war. He was appointed second lieutenant Nineteenth United States Infantry, February 23, 1866, and promoted first lieutenant same date; was transferred to the Twenty-third Infantry, September 21, 1866, and left unassigned in the consolidation of the Army in May, 1869. In March, 1869, he applied for retirement, in consequence of wounds received at the battle of Malvern Hill, July 1, 1862, and the battle of the Wilderness, May 5, 1864. He was ordered before the retiring-board, in New York City, in November, 1870, and, in accordance with the finding of the board, was retired December 15, 1870, on the full rank and pay of colonel, under section 32 of the act of July 28, 1866.

"A copy of extract from the proceedings of the retiring-board, embracing the testimony of the medical officers and the finding of the board, is annexed hereto. The nature of the disabling wounds, time received, and the rank and command held by Lieutenant-Colonel Pulford on both occasions, are set forth in the finding of the board. The records of the Fifth Michigan Volunteers show that, in addition to the severe wounds for which he was retired, Lieutenant-Colonel Pulford was also wounded at Gettysburg, Pa., July, 1863: 'Contusion of thigh, severe; right hand, slight.'

"His retirement with the rank of colonel was in consequence of his receiving a dis-

abling wound May 5, 1864, when in *command* of a regiment; and under the operation of section 2 of the act of March 3, 1875, he was reduced to the rank of lieutenant-colonel, which was the actual rank he held in the volunteers on the date named.

"Very respectfully, your obedient servant,

"THOMAS M. VINCENT,
"*Assistant Adjutant-General.*

"The Hon. SECRETARY OF WAR."

The papers accompanying the foregoing letter, and therein referred to, are as follows to wit:

'*Proceedings of the Army Retiring Board, convened at the Army buildings, in the city of New York.*

* * * * * * *

"NEW YORK CITY, *November* 21, 1870—11 o'clock a. m.

"The retiring-board met * * * pursuant to adjournment.

* * * * * * *

"The board, having concluded some other business, then proceeded to carefully investigate and determine the facts as to the nature and occasion of any disability to perform active military service, and the duties of his office, of First Lieut. John Pulford, United States Infantry, unassigned, who thereupon came before the board.

* * * * * * *

"Surgeon John Moore, of the board, was then duly sworn as a witness, and testified as follows:

"'Question by the board. Please give an account of your physical examination of Lieutenant Pulford.—Answer. I have, with Lieutenant-Colonel Sutherland, examined this officer, and we find as follows:

"Surgeon Moore then read to the board, as his answer, the joint report which is hereto appended as part of these proceedings, and marked as Exhibit I.

"'Q. by the board. To which of the two wounds is the incapacity due?—A. I think either injury would have disqualified him for service. The convulsions appear to have followed on the first injury which fractured the skull.

"'Q. by the board. From the effects of which wound does he now suffer the most?—A. He probably suffers the most now from the rifle-shot, passing through the neck and damaging the protection of the spinal cord.'

* * * * * * *

"Assistant Medical Purveyor Charles Sutherland, of the board, was then duly sworn as a witness in this case, and testified as follows:

"'Question by the board. Do you or not concur in the answers just made by Surgeon Moore; and, if not, wherein not?—Answer. I concur.'

* * * * * * *

"The board was then cleared; and, after careful investigation and mature deliberation, reports as its judgment that First Lieut. John Pulford, United States Infantry, unassigned, is incapacitated for active service, and that said incapacity is due to wounds received in battle, namely:

"First, to a wound from a spent six-pound round shot, which fractured the temporal bone of the skull, and broke his collar-bone and lower jaw, causing epileptic convulsions; which wound was received at the battle of Malvern Hill, Va., July 1, 1862, while a captain of the Fifth Regiment Michigan Volunteer Infantry, and in command of Company A of that regiment; and, second, to a wound from a minie-ball, which entered the right side of the neck, and passing backward and downward carried away the spinal process of one of the upper dorsal vertebræ, and has left the spinal cord imperfectly protected; and which last-mentioned wound was received at the battle of the Wilderness, Virginia, May 5, 1864, while he was lieutenant-colonel of the Fifth Regiment Michigan Veteran Volunteer Infantry, and, at the time, in actual command of said regiment, and that he is entitled to the benefits of the thirty-second section of the act of Congress approved July 28, 1866.

"IRVIN McDOWELL,
"*Brevet Major-General, President.*
"ASA BIRD GARDNER,
"*First Lieutenant, First United States Artillery, Recorder.*

"EXHIBIT I.

"NEW YORK, *November* 21, 1870.

"On examination of First Lieut. John Pulford, United States Army, unassigned, we find the cicatrix of a minie-ball, which entered on the right side of the neck, and, passing backward and a little downard, came out through the spine, carrying away the

spinal process of one of the upper dorsal vertebræ, and leaving the spinal cord so imperfectly protected that a slight pressure of the finger at this point causes a feeling of sickness at the stomach and vertigo.

"He was also struck, as we learn from written testimony in his possession, by a six-pound spent round shot at Malvern Hill, which broke his collar-bone and fractured the temporal bone of the skull and broke the lower jaw.

"Since receiving these injuries he has had three or four attacks of epileptic convulsions, and is conscious of a loss of memory, which he says is increasing. His disability is permanent, and, in our opinion, he will never be able to perform military duty.

"C. SUTHERLAND,
"*Assistant Medical Purveyor, U. S. A.*
"JNO. MOORE,
"*Surgeon, U. S. A.*"

Your committee addressed the following letter to the Surgeon-General of the Army to wit:

"UNITED STATES SENATE CHAMBER,
"*Washington, February* 5, 1877.

"SIR: On behalf of the Military Committee of the Senate, I have the honor to submit a copy of the proceedings and finding of the retiring-board of the United States Army, in the case of Lieut. Col. John Pulford, United States Army, retired, for whose relief a bill is now pending before this committee, and to ask if, in your opinion, the wound described in said record is more severe, dangerous, and disabling, and more fully incapacitates and disqualifies him from any service or business, than if he had simply suffered the loss or resection of a limb. Please give as early reply as possible.

"Yours, respectfully,

"DANIEL SHEPARD,
"*Clerk Military Affairs United States Senate.*

"General J. K. BARNES,
"*Surgeon-General United States Army.*"

To which they received the following reply, viz:

"SURGEON-GENERAL'S OFFICE, *February* 9, 1877.

"Respectfully returned, with opinion that the wounds described in the record are more severe, dangerous, and disabling, and more fully incapacitate and disqualify for any service or business, than would the loss or resection of a limb.

"J. K. BARNES,
"*Surgeon-General.*"

Section 32, act of July 28, 1866 (see vol. 14, U. S. Statutes at Large, page 337), entitled "An act to increase and fix the military peace establishment of the United States," provides—

"That officers of the Regular Army entitled to be retired on account of disability occasioned by wounds received in battle may be retired upon the full rank of the command held by them, whether in the regular or volunteer service, at the time such wounds were received."

Colonel Pulford was a lieutenant-colonel of volunteers, and in full command of his regiment when disabled by wounds received in battle, and under the above section was retired December 15, 1870, upon the full rank of his command—colonel.

Section 2 of the act of March 3, 1875, entitled "An act for the relief of General Samuel W. Crawford, and to fix the rank and pay of retired officers of the Army" (see vol. 18, U. S. Statutes at Large, page 512), provides—

"That all officers of the Army who have been heretofore retired by reason of disability arising from wounds received in action shall be considered as retired upon the actual rank held by them, whether in the regular or volunteer service, at the time when such wound was received, and shall be borne on the retired-list and receive pay hereafter accordingly; and this section shall be taken and construed to include those now borne on the retired-list, placed upon it on account of wounds received in action: *Provided*, That no part of the foregoing act shall apply to those officers who had been in service as commissioned officers twenty-five years at the date of their retirement, nor to those retired officers who had lost an arm or leg, or had an arm or leg permanently disabled by reason of resection on account of wounds, or both eyes, by reason of wounds received in battle."

Under this law, Pulford was reduced in his rank on the retired-list to the rank of lieutenant-colonel, and his actual rank at the time when he received his wounds in battle. He now seeks to be restored to the rank of colonel, upon which rank he was retired, and bases his claim to this right upon the grounds that his wounds, received in battle while commanding his regiment, are severer, more dangerous, and more dis-

abling, and more fully incapacitate and disqualify him for any service or business, than if he had simply lost an arm or leg, or had an arm or leg permanently disabled by reason of resection on account of wounds received in battle.

Your committee find that these grounds are true, and that his wounds are of the character and effect claimed.

Under the proviso in the foregoing act of March 3, 1875, those officers who had lost an arm or leg, or had an arm or leg permanently disabled, by reason of resection, were continued upon the retired-list with the full rank of their command held at the time when their wounds were received.

The act of July 28, 1866, referred to, retired all officers upon the full rank of their command, not upon their actual rank. The act of March 3, 1865, reduced the rank of all retired officers from the rank of their command to the actual rank held when wounded, saving and excepting those officers who had lost an arm or leg, or had an arm or leg permanently disabled by resection; showing clearly that Congress considered that the act of July 28, 1866, was just and wise in its provisions for these excepted officers.

Your committee adhere to the wisdom and propriety of the act of March 3, 1875, and its exceptions; and finding that Colonel Pulford's injuries, received in battle, are more severe, dangerous, and disabling, and more fully incapacitate and disqualify him for any service or business than would have been the loss of a leg or arm, or the permanent disability of an arm or leg by resection, your committee believe that his case is fully within the spirit and intention of the proviso of the act of March 3, 1875, and that he, too, equally with those who have lost an arm or leg, or had an arm or leg permanently disabled by resection, is entitled to be continued on the retired-list with the full rank of colonel of infantry, the rank of his command when wounded. Your committee expressly adhere to the continuance of the act of March 3, 1875, and consider Pulford's case an extreme and exceptional case, fully embraced in the spirit and object of the proviso of said act, and recommend the passage of the accompanying bill as a substitute for said House bill.

The bill therein recommended passed the Senate, and was not acted upon in the House.

Your committee have again considered this case and fully adopt the foregoing report. This bill omits the following words, which were in the bill passed in the Senate in the Forty-fourth Congress: "With the pay of such rank from the date of the passage of this act."

Your committee now recommend that said words be inserted just after the words "seventy-five" in lines 19 and 20, and that said bill, with such amendment, be passed.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 55.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1878.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 694.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 694) for the relief of William H. Needham, late second lieutenant Company D, Twenty-second Regiment Iowa Infantry Volunteers, beg leave to report:

That the committee have carefully examined the evidence on which Mr. Needham's claim is based. In the judgment of the committee the claim is eminently just and fully sustained by the evidence. Mr. Needham was a sergeant in Company D, Twenty-second Iowa Infantry Volunteers, and so continued until June 5, 1863, when he was recommended for promotion to the office of second lieutenant in said company by Col. W. M. Stone, his commanding officer, to Governor Samuel J. Kirkwood, governor of Iowa, and in due time was commissioned by him as second lieutenant, bearing date June 5, 1863. Mr. Needham was at once put on duty as second lieutenant and so continued till November 11, 1863, when he was commissioned first lieutenant. Colonel Stone states that he was short of company-officers, and that there was an actual necessity for his services. The commission, by some delay, not reaching within reasonable time, Colonel Stone brought the matter to the attention of General Ord, commanding his corps, who advised him that Needham should be continued as lieutenant; that it was necessary. Thus matters continued till Needham's commission from Governor Kirkwood reached him, August 5, 1863, and the mustering-officer declined to muster him in as second lieutenant because the company by that time had been reduced below the number authorizing a second lieutenant. Still Colonel Stone says he was continued because necessary. All this was in front of Vicksburg. The major and the adjutant of his regiment, and the captain of his company, corroborate these statements. All testify that he was a faithful, gallant officer, never absent from duty with or without leave; that he was mustered out as sergeant June 5, 1863, and drew no pay nor rations nor clothing between that date and November 11, 1863, when he was appointed first lieutenant. The Secretary of War, in a communication to him, states that his claim is meritorious and he would gladly order it paid if allowed by law. Upon the whole case, therefore, the committee being satisfied, first, that he is justly entitled; second, has not been paid, report the House bill back to the Senate and recommend its passage without amendment.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 56.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1878.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 104.]

The Committee on Military Affairs, to which was referred the bill (S. 104) amending section 1661, Title XVI (the Militia), of the Revised Statutes, have had the same under consideration, and beg leave to submit the following report:

The proposed amendment is eminently wise and well-timed. Clause 16, section 8, article 1 of the Constitution grants to Congress the power "to provide for organizing, arming, and disciplining the militia, * * *."

Section 1661, proposed to be amended, grants the annual sum of $200,000 for the purpose of providing arms and equipments for the whole body of the militia, either by purchase or manufacture. This act was passed in 1808. The organized militia in 1877 was 90,865, unorganized, 2,875,469. The Chief of Ordnance reports that the present allowance will not arm and equip more than 8,000 infantry. (See Annual Report Chief Ordnance for fiscal year ending June 30, 1877, page 7.)

The second amendment to the Constitution declares in effect that a well-regulated militia is necessary to the security of a free State. There can be no question of it. The Chief of Ordnance recommends the passage of the bill, and the Secretary of War concurs.

If $200,000 was none too much in 1808, certainly $1,000,000 is none too much now. The committee recommend the passage of the bill with the following amendment, and call the attention of the Senate to the recommendation of the Chief of Ordnance in the report above quoted, to be found on page 9.

The amendment is believed important to protect the government against loss. The bill as amended reads as follows:

Be it enacted, &c., That section 1661, Title XVI (the Militia), of the Revised Statutes be and the same is hereby amended so as to hereafter read as follows:

SEC. 1661. [1.] The annual sum of one million dollars is appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the purpose of providing arms and equipments for the whole body of the militia, either by purchase or manufacture, by and on account of the United States.

[2.] That the arms and equipments issued under this act shall remain the property of the United States, and be annually accounted for to the Chief of Ordnance of the United States Army by the governors of the States and Territories, in the same manner as ordnance and ordnance stores issued to the Regular Army are accounted for.

[3.] All arms and equipments which may become unserviceable or unsuitable shall be examined by a board of officers of the militia, and its report shall be forwarded by the governor direct to the Chief of Ordnance, United States Army, for the action of

the Secretary of War, who shall direct what disposition, by sale or otherwise, shall be made of them.

[4.] Loss of, or damage to arms and equipments, except the ordinary wear and accidents of service, shall be made good to the United States by the person or persons chargeable therewith, as in like cases in the Regular Army.

[5.] Money received from sales or on account of loss or damages to arms and equipments, shall be accounted for to the Chief of Ordnance, United States Army, and paid into the Treasury of the United States.

[6.] The Chief of Ordnance, United States Army, under the direction of the Secretary of War, shall prescribe and supply the necessary blanks, and make such regulations touching the accountability, care, and disposition of the arms and equipments as he may deem necessary to protect the interest of the United States.

In accordance with the foregoing report, the committee report the accompanying bill as amended and recommend its passage.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 57.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1878.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1142.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1142) for the relief of Charles W. Wood, late of Company E, First Battalion, Thirteenth Regiment United States Infantry, present the following report:

That Charles W. Wood, as appears by his original discharge on file, was enlisted as a private in Capt. Robert Nugent's Company E, First Battalion, Thirteenth Regiment United States Infantry, July 4, 1862, to serve for three years, and was discharged July 6, 1865, in consequence of expiration of service. His character is certified good on his discharge.

It appears from his military history, furnished by the Adjutant-General's Office May 20, 1876, on file, that he is reported "deserted July 26, 1862, at Newport Barracks, Kentucky; apprehended July 28, 1862, at Newport Barracks, Kentucky, present in confinement." "He was held in confinement awaiting trial for desertion until January, 1863, when he was released and restored to duty, without trial, on condition that he make good time lost by desertion. (*Vide* Special Orders No. 33, Adjutant-General's Office, War Department, January 21, 1863.) He was assigned to Company E, First Battalion, Thirteenth United States Infantry, and was discharged July 6, 1865, by expiration of service, at Nashville, Tenn., a private, having made good two days lost by desertion.

1st. It is not at all clear that Wood ever *intended* to desert. He was examined when presented for physical examination by the hospital-steward acting as surgeon. Upon this examination the steward said in effect "he could not pass him." This was July 26, 1862. Wood left, and states under oath that he understood by the words that he was rejected, and started for home. This is reasonable. Lieut. Col. S. Burbank, commanding Thirteenth Infantry, under date November 9, 1862, says upon examination he found the steward made the remark attributed to him. He states, however, that on that morning, November 9, 1862, the man says "he did not consider the remark made by the steward as a discharge." The man, however, swears he did. To say the least, he should have the benefit of the doubt.

2d. He was released from arrest in January, 1863, by the War Department (Special Orders No. 33, January 21, 1863), and "restored to duty without trial on condition that he make good time lost by desertion." He served his full time out, including the time (two days) lost

by desertion, and was discharged with a good character. This is conclusive of the case.

3d. Under the decision of the Supreme Court (United States *vs.* Kelly, 15 Wallace), the honorable discharge of the soldier deserted was a formal final judgment passed by the government upon the entire military record of the soldier, and an authoritative declaration by it that he had left the service in a *status* of honor; that as such it dispensed altogether with the supposed necessity that the soldier must obtain bounty by removal by orders of the charge of desertion from the rolls, and amounted of itself to the removal of any charge or impediment in the way of his receiving bounty.

This is also conclusive.

The committee therefore report the bill back without amendment and recommend its passage.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 58.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1878.—Ordered to be printed.

Mr. BOOTH, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill S. 148.]

The Committee on Patents, to whom was referred the bill (S. 148) to confirm the term, for the period of seventeen years from the date of its original grant, of the patent of Thomas A. Weston, respectfully report:

That Thomas A. Weston in 1859 took out letters patent in England for his invention in differential pulley-blocks, and that on December 31, 1859, he filed a caveat covering such invention in the United States Patent Office, which was renewed for one year, and which, under section 12 of the act July 4, 1836, entitled him to notice of any interfering application for a patent within two years from December 31, 1859.

That one J. J. Doyle, on December 6, 1860, applied for a patent on an improved "hoisting device," which was fully described in said caveat, and that on June 8, 1861, a patent was issued to him, without notice to Weston.

That on December 14, 1861, Weston filed his application for a patent, which was refused on account of Doyle's prior patent for the same invention. Interference proceedings were twice had to determine priority of invention, and both times priority was awarded to Doyle; but in 1867 they were had a third time, and Weston having changed his attorney, priority was awarded to him. It appears that during the first two proceedings in interference the same attorney was representing both parties, and Weston's case was therefore not properly presented.

The examiner in interference who rendered the above decision of 1867 said:

> The fact cannot be denied that Doyle's patent, under the circumstances, no notice having been taken of Weston's caveat, was improperly issued, and that an act of great injustice, unintentionally of course, was perpetrated toward Weston.

On August 6, 1867, as soon as practicable after the above decision, a patent was issued to Weston.

The sixth section of the act of March 3, 1839, provided—

> That in all cases every such patent [patent granted after a foreign patent] shall be limited to the term of fourteen years from the date of publication of such foreign letters patent.

Section 16 of the act March 2, 1861, under which the present patent was issued, provides "that all patents hereafter granted shall remain in force for the term of seventeen years from the date of issue," and section 17 provides "that all acts and parts of acts heretofore passed,

which are inconsistent with the provisions of this act, be, and the same are hereby, repealed."

It appears from a certified copy of proceedings of the circuit court of the United States for the district of Connecticut, on file with the case, that it has been judicially determined that Weston's patent expired seventeen years from October 22, 1859, the date of his foreign patent. This is the accepted construction of the act of 1861 by the United States Patent Office, as appears from the decisions of the Commissioner of Patents in the cases of Hermann *vs.* Gilmore and Eades *vs.* Jewsbury. (See Commissioner's Decisions of 1869.)

Mr. Weston was therefore deprived of the use of his patent in this country for a period of about six and a half years after his application by error of the United States Patent Office. It is shown by numerous letters and papers on file and by said decision of the court to be an invention of value to the public, and he is shown by said decision in interference of 1867 and by said decision of the court to be the first inventor.

The committee is therefore of the opinion that Weston is equitably entitled to the relief asked for, and recommend the passage of the bill with the following amendment:

That no one shall be held liable for any infringement of the patent during the period from the date of its lapse to the passage of this act, or for the use or sale hereafter of any specific devices embracing the patented invention made within that period.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 59.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 4, 1878.—Agreed to and ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Mrs. Jane Dulany, widow of the late Col. William Dulany, United States Marine Corps, praying to be allowed arrears of pension, having examined the same and the accompanying papers, feel constrained to report adversely on the petition, as it is contrary to the policy of the government and the action of Congress to allow arrears of pension.

The committee, therefore, ask to be relieved from the further consideration of the case.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 60.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 662.]

Mr. Maxey, on behalf of the Committee on Military Affairs, to which was submitted the communication of the War Department of December 8, 1877, in respect to commutation of quarters, submits the following report:

The Committee on Military Affairs, to which the foregoing communication was submitted, having carefully considered the same, recommend that the following amendment, which was added to section 1270 by the act approved February 27, 1877, 19 Stat., p. 243, to wit—

Provided, however, That when forage in kind cannot be furnished by the proper department, then, and in all such cases, officers entitled to forage may commute the same according to existing regulations—

be repealed, and that hereafter said section shall read as follows:

SEC. 1270. Fuel, quarters, and forage may be furnished in kind fficers by the Quartermaster's Department according to law and regulations.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 61.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 26.]

The Committee on Military Affairs, to whom was referred the bill (S. 26) to donate a portion of the military reservation of Fort Harker, Kansas, to the State of Kansas, respectfully report:

That the evidence is clear that said reservation is no longer needed for military purposes; in view whereof the committee recommend that said lands, named in said bill to be turned over to the State of Kansas, be placed in the custody and control of the Secretary of the Interior, for disposition, for cash, according to existing laws relating to the public lands, after appraisement, to the highest bidder, at not less than the appraised value nor less $1.25 per acre. (See act March 3, 1877, ch. 129, vol. 19, p. 406.)

The committee report the accompanying bill as a substitute, and recommend its passage.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT 61, Part 2.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following as the

VIEWS OF THE MINORITY.

[To accompany bill S. 26.]

The undersigned, a minority of the Committee on Military Affairs, to whom was referred the bill (S. 26) "To donate a portion of the military reservation of Fort Harker to the State of Kansas for the establishment of an educational or charitable institution, and to open the remainder of said reservation to settlement," dissents from the conclusions of the majority of the committee thereon.

The committee have offered a substitute which proposes to dispose of the reservation at public sale to the highest bidder, at not less than $1.25 per acre. The amendment presented herewith proposes to open said reservation to homestead settlement.

The reservation was established by order of the President, November 3, 1866, and is situated in the county of Ellsworth, about two hundred and twenty miles west of the Missouri River, and in longitude 98° 15′. The post is no longer needed for military purposes, and has been abandoned for several years. There was no dissent in the committee as to the propriety of disposing of the reservation.

The reservation embraces sixteen sections, or a little more than ten thousand acres. It is not of great value. A considerable proportion of it is poorly adapted to agricultural purposes. Lands owned by the railroad company in the immediate vicinity are offered at $2 an acre on long credit. In that county also there are considerable quantities of public lands open to homestead settlement under existing laws, from which actual settlers can enter each one hundred and sixty acres. According to the best information which I have been able to obtain, it does not seem probable that the government would be able to secure more than the average price of $2.50 per acre for the land, while some of it would scarcely find a market at the limit of $1.25 per acre fixed by the bill.

Opening these lands to homestead settlement would, the undersigned feels assured, prove of greater advantage to the general interest's of the country than could be derived from the comparatively small sum which they would bring at public sale. As they are situated within the limits of the grant to the Kansas Pacific Railway, no settler could take to exceed eighty acres. Thus, if all were taken, these lands would furnish homes to more than one hundred and twenty-five families, and by their cultivation contribute in a marked degree to the prosperity and wealth of the vicinity and of the State, and correspondingly to the prosperity of the nation.

There are few, if any, provisions in our statutes that have been more

effectual in promoting the welfare of the people of the country than those embodied in the homestead law. In the judgment of the undersigned the time has come when the disposition of all our public lands, not timbered or mineral, should be confined to homestead entries exclusively. The statistics of the General Land Office for the past five years show a gradual falling off in the amount of lands so disposed of, owing to the fact that the quantity of desirable lands is rapidly diminishing. The Commissioner, in his report for the fiscal year ending June 30, 1876, says:

As may be gathered from the general views submitted in this report, not only the present falling off, but a steady decrease in the disposition of the public lands in the future, may be looked for, from the fact that the Congressional grants for railroads, wagon-roads, schools, and other purposes of internal improvement are gradually being satisfied; and although we observe an increase for the past year in the entries of public lands under the homestead and timber-culture laws, yet of necessity even this class of entries must diminish, as, in the localities most accessible and desirable for actual settlement and cultivation, the lands have to a large extent passed to private ownership, and there remains in all the vast public domain but a comparatively small area susceptible of cultivation by individual enterprise, owing to the want of water.

It would seem the part of wisdom to hold exclusively for homestead purposes all lands which, by the legislation of Congress, are restored to the public domain.

Subjecting these lands to public sale offers an inducement to speculation not in harmony with the public interest. To prevent them from passing into the control of those who would withhold them from sale and settlement until high prices could be realized, I regard, with proper deference to the views of the majority of the committee, as a public duty.

The act of 1854 organizing the Territory of Kansas provided that upon the survey of the lands in said Territory, sections numbered 16 and 36 in each township were to be reserved for school purposes in the Territory and in the States and Territories thereafter to be erected out of the same. By the act of 1861, admitting the Territory into the Union as a State, the same reservation was made. The act granting lands to aid in the construction of the Union Pacific Railroad and its branches was passed in 1862, and under its provisions the road now known as the Kansas Pacific, which runs directly through these lands, was constructed. All this legislation, it will be observed, preceded the setting apart of the lands for military purposes. While it would not be within the power of Congress to impair any rights that have already vested, I am of the opinion that an express reservation of them, if they exist, may properly be made.

The undersigned therefore submits the accompanying amendment to the substitute proposed by the committee.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 62.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Ordered to be printed.

Mr. SPENCER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany joint resolution H. R. 62.]

The Committee on Military Affairs, to whom was referred joint resolution (H. R. 62) appropriating $200 to defray expenses of transferring the remains of Pancoast Loose, a deceased soldier, have had the same under consideration, and submit the following report:

It appears that Pancoast Loose enlisted in Company L, Second United States Cavalry, May 2, 1876, and served with the same, under the assumed name of Harry Trevor, on the frontier. Being under age at the date of his enlistment, his father obtained from the Secretary of War an order for his discharge, which was issued June 28, 1877 (special orders No. 141). Although the fact of his discharge was unofficially known to his captain, yet, forty days after the issuance of the same, he compelled young Trevor to serve in the field with his company in hostilities with the Nez Percés Indians, without absolute necessity therefor, as there were, it appears, able-bodied men of his company, not for discharge, left at Fort Ellis. In the fight young Loose (or Trevor) was shot through the left lung while gallantly fighting, and died in hospital at Virginia City. Hence the order of discharge was never carried out. Under these painful and fortuitous circumstances your committee are of opinion the joint resolution should pass. The fund is to be used under direction of the Secretary of War, which guarantees its economical disbursement.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 63.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 262.]

The Committee on Military Affairs, to whom was referred the bill (S. 262) to authorize the President of the United States to promote and retire First Lieut. David I. Ezekiel, of the Fourth Regiment of Infantry, United States Army, have had the same under consideration, and submit the following report:

The proof shows that on the 28th day of July, 1866, David I. Ezekiel was appointed and commissioned a first lieutenant in the Thirty-eighth Regiment of Infantry in the United States Army. In accordance with the requirements of section 2 of an act approved March 3, 1869, providing for the consolidation of the infantry regiments of the Army, the Thirty-eighth and Forty-first Regiments were designated for consolidation by the General of the Army, to form the new Twenty-fourth Regiment of Infantry. General Orders No. 16 from the Headquarters of the Army, dated March 11, 1869, required that in the new Twenty-fourth Regiment the company officers should be selected "from the seniors of each grade present for duty and fit for active service" at the time of consolidation, and General Orders No. 17, of March 15, 1869, is to the same effect. At the time these orders were issued Lieutenant Ezekiel was present for duty with his company, and so remained until the consolidation of the Thirty-eighth and Forty-first Regiments and the formation of the new Twenty-fourth Regiment were completed.

After the issuance of General Orders Nos. 16 and 17, and before the new regiment was formed, Lieutenant Ezekiel was ordered before a board of officers for physical examination as to his fitness to perform active service. The board reported that it could, "at the present time, discover nothing, upon a thorough physical examination of said officer, which would disable him from the various duties incident to active service." This report is dated October 12, 1869. By General Orders No. 201 from headquarters Fifth Military District, dated November 11, 1869, Lieutenant Ezekiel was placed upon "waiting orders," which he claims to have been in violation of General Orders Nos. 16 and 17, before cited. At this time he was the senior first lieutenant of both the Thirty-eighth and Forty-first Regiments, "present for duty and fit for active service," and, as such, he claims that he was entitled to be made the ranking first lieutenant of the new Twenty-fourth Regiment. After being placed on "waiting orders" he was not assigned to any regiment

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 63.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 262.]

The Committee on Military Affairs, to whom was referred the bill (S. 262) to authorize the President of the United States to promote and retire First Lieut. David I. Ezekiel, of the Fourth Regiment of Infantry, United States Army, have had the same under consideration, and submit the following report:

The proof shows that on the 28th day of July, 1866, David I. Ezekiel was appointed and commissioned a first lieutenant in the Thirty-eighth Regiment of Infantry in the United States Army. In accordance with the requirements of section 2 of an act approved March 3, 1869, providing for the consolidation of the infantry regiments of the Army, the Thirty-eighth and Forty-first Regiments were designated for consolidation by the General of the Army, to form the new Twenty-fourth Regiment of Infantry. General Orders No. 16 from the Headquarters of the Army, dated March 11, 1869, required that in the new Twenty-fourth Regiment the company officers should be selected "from the seniors of each grade present for duty and fit for active service" at the time of consolidation, and General Orders No. 17, of March 15, 1869, is to the same effect. At the time these orders were issued Lieutenant Ezekiel was present for duty with his company, and so remained until the consolidation of the Thirty-eighth and Forty-first Regiments and the formation of the new Twenty-fourth Regiment were completed.

After the issuance of General Orders Nos. 16 and 17, and before the new regiment was formed, Lieutenant Ezekiel was ordered before a board of officers for physical examination as to his fitness to perform active service. The board reported that it could, "at the present time, discover nothing, upon a thorough physical examination of said officer, which would disable him from the various duties incident to active service." This report is dated October 12, 1869. By General Orders No. 201 from headquarters Fifth Military District, dated November 11, 1869, Lieutenant Ezekiel was placed upon "waiting orders," which he claims to have been in violation of General Orders Nos. 16 and 17, before cited. At this time he was the senior first lieutenant of both the Thirty-eighth and Forty-first Regiments, "present for duty and fit for active service," and, as such, he claims that he was entitled to be made the ranking first lieutenant of the new Twenty-fourth Regiment. After being placed on "waiting orders" he was not assigned to any regiment

until April 6, 1870, when he was assigned to the Fourth Regiment of Infantry, wherein he was the seventh in rank of the first lieutenants. Had he been assigned to the new Twenty-fourth Regiment he would have received his captaincy in May, 1871, and the object of the bill is to give him that rank upon the retired list.

The case turns upon the proper construction to be put upon the phrase "fit for active service" in General Orders Nos. 16 and 17. The act of March 2, 1869, providing for the consolidation of the infantry regiments, left the manner of effecting such consolidation entirely to the discretion of the Secretary of War. The consolidation of the Thirty-eighth and Forty-first into the Twenty-fourth Regiment was effected under the direction of General J. J. Reynolds, commanding the Fifth Military District, who states that Lieutenant Ezekiel and other officers were left out "for reasons satisfactory to myself, as *unfit for service.*" In selecting the officers to be retained from the Thirty-eighth Regiment, General Reynolds consulted Brevet Major General Grover, formerly lieutenant-colonel of that regiment, and was, he says, "to a certain extent, guided by his opinion of their fitness for 'active service,' mentally, morally, and physically." The construction put upon the general orders before referred to was that they required that the most efficient officers, the best material for active field-service, should be selected. In a communication from the Adjutant-General's Office, dated February 21, 1876, that officer says that in the assignment of company officers "fitness for active service was had in view, as well as seniority of commission." Since the consolidation was effected a retiring-board has found Lieutenant Ezekiel incapacitated for active service on account of wounds received prior to his appointment in the Regular Army, and it appeared in evidence that he was first incapacitated from these wounds in July, 1867.

The committee see no reason for reversing the construction placed upon the general orders of the War Department by the commanding officer of the military district, indorsed by the department itself, and they therefore report the bill back adversely and recommend that it be indefinitely postponed.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 64.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1876.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT

[To accompany bill S. 244.]

The Committee on Pensions, having had under consideration the bill (S. 244) granting a pension to Frederick Banker, late private in Company E, Seventeenth Regiment Wisconsin Volunteers, report:

That said Banker enlisted as a private in said company and regiment March 1, 1862, and was discharged on certificate of disability April 10, 1863. His application for pension was filed June 5, 1872, nine years after discharge, and was based on alleged injury to right knee received from "stepping in a hole" while in the service and line of duty.

The certificate upon which he was discharged states that he was disabled and unfit for duty in any capacity by reason of "chronic synovitis and partial anchylosis of the right knee, caused by a wound received prior to enlistment, and is signed by the lieutenant commanding the company, the regimental surgeon, and examined and approved by the surgeon of division.

The claimant admits that when about ten years of age, while wrestling, he fell and cut his knee upon an axe, which made it partially stiff, and caused a slight limp.

No medical evidence is on file to show that claimant was sound at the time of enlistment, but Hiram Bugbee testifies that he worked with Banker in certain saw-mills during 1859 and 1860; that he had wrestled, scuffled, and walked long distances with him, and knew him to be strong in body and limb.

Henry Bugbee swears that Banker worked for him during the winter of 1860, and was employed in getting out railroad ties. He was sound and strong, and capable of performing as much hard labor as any man there employed. He drove a team, and loaded and unloaded ties so heavy that none but strong and able-bodied men could have handled them.

Stephen Smith swears that Banker was employed by him in the fall of 1861, and in January and February, 1862, and was in his employ at the time of his enlistment; that he was then a stout, able-bodied man, and received the usual pay of a farm laborer.

This claim was rejected July 8, 1872, on the ground that the disability occurred prior to the enlistment. An appeal was taken to the Secretary of the Interior, who affirmed the decision October 6, 1874.

The committee concur with the Commissioner and the Secretary, and recommend that the bill be indefinitely postponed.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 65.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 286.]

David Torpey enlisted in Company G, Thirteenth Regiment Indiana Volunteers, from June 19 to October 7, 1861, when he was discharged at Camp Elkwater, Va., on surgeon's certificate of disability. He re-enlisted, and served in Company C, Fiftieth Indiana Volunteers, from October 7, 1861, to March 23, 1863, when he was again discharged at Indianapolis, Ind., for disability contracted prior to entry into service.

He filed an application for pension August 9, 1872, alleging disability from rheumatism in the right thigh. In his affidavit he states that in August, 1861, he was detailed with others to build a bridge at Huttonsville, W. Va., over the Elkwater. He was compelled to stand in the water, a cold mountain stream, while at work on the bridge (which was two days), as long as he could endure it at one time, and by said exposure he contracted his disease August 20, 1862. During his second enlistment, in a fight with the rebels at Edgefield Junction, Tenn., by reason of hurt and exposure, he had a relapse, from which he never has recovered, and does not believe he ever will.

J. W. Hovey, first assistant surgeon, Fiftieth Indiana Volunteers, testifies that the claimant was attacked with inflammatory rheumatism at Edgefield Junction, and treated by him for such disease. The detachment was guarding a railroad-bridge at that point, August 20, 1862, when Morgan made an attack. Claimant overexerted himself, and his rheumatism returned, with malarial fever.

A. C. Trueblood and Second Lieut. Edward M. Butler, of claimant's company, swear that at the time of his enlistment he was a stout, able-bodied man.

Dr. J. B. Wilson states that at the time of claimant's enlistment he was free from hip-joint disease, or any other disease, and that he saw the soldier on his return from the service and knew him to be disabled.

C. L. Paynter was the family physician of Torpey, and knows that when he came out of the Army he was suffering and still suffers from rheumatism.

On November 30, 1875, this claim was referred to a special agent of the Pension Office for investigation. He recommended the rejection of the claim, stating that the evidence, in his judgment, satisfactorily proved that the alleged disability was not due to the service, but to an injury existing prior to his enlistment.

In support of this opinion he refers—

1st. To the statement contained in the certificate of disability for dis-

charge, that the difficulty in right hip existed, according to claimant's own statement, prior to enlistment.

2d. To a statement contained in a letter of Col. Horace Heffren, who knew claimant both in the Thirteenth and Fiftieth Regiments, and both before and since the war; that he had a hitch in his gait from an injury, as was said, on the outside of one of his thighs, which he had exhibited to writer before enlistment, and that he "played off" while in the Army, but as soon as discharged threw away his crutches and was "all right."

3d. The affidavits of James Needham and Frank Richardson, testifying that, from 1865 to 1869, Torpey worked for them in a stone-quarry and received the wages of an able-bodied laborer; that they have known Torpey for the last twenty years, and during the whole of that period he has been more or less lame, from appearances, in the right hip.

4th. The certificate of Examining-Surgeon Chase, given March 3, 1875, states that, "with the exception of the right thigh, nothing can be discovered;" * * * that the right thigh is dislocated upon the right ilii and presents the appearance of having been in that condition for many years. The muscles from the crest of the ilium to the knee are atrophied; the skin crossing the major trochanter presents two large adherent cicatrices, resulting from former abscesses. The hip-joint is anchylosed, and he suffers from periostitis in the middle of the right femur.

Dawson J. Zinck swears that the claimant was lame in one of his hips, causing him to limp, prior to his enlistment, and that his condition in this respect was not any worse than before his military service, until several years after his discharge.

During the investigation, Lieutenant Butler, who had already made an affidavit favorable to the claim, testified that the lameness of Torpey, on account of which he was discharged in 1861, was a matter of imposition on his part.

Colonel Heffren states (this time under oath) that he had personal knowledge of the existence of the alleged difficulty of the hip prior to claimant's first enlistment in 1861.

The testimony in this case is conflicting, but the preponderance of evidence is against the validity of Torpey's claim, and the committee therefore recommend that the bill do not pass.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 66.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 132.]

The petition of Joseph Grigsby for the restoration of his name to the pension-rolls does not present a case for the favorable consideration of the Senate.

His name was dropped from the rolls after a full investigation by the Pension Office into the origin of his disability. That investigation shows that hernia, the injury for which he was pensioned, was not received in the military service of the United States, but before his entry therein.

The question presented is one of preponderance of evidence, and the committee is of opinion that the case made by the Pension Office is not overcome by that presented by the petitioner.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 67.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 23.]

The Committee on Military Affairs, to whom was referred the bill (S. 23) for the relief of Major and Brevet Colonel Joseph B. Collins, &c., having had the same under consideration, ask leave to present the following report:

This bill authorizes the President to appoint Major Collins to the first occurring vacancy as major of infantry, or, at his discretion, to retire the said Collins as with the rank he "would have attained" if he had remained in the service until "the passage of this act." It will thus be seen that Collins asks Congress not only to restore him to the Army, from which he was legally discharged, but to put him back into his old rank, and, failing this, to pass a law ignoring the legal action of the executive government in mustering him out of the service, by retiring him at a rank equal to the one he would *now* hold had he not been so discharged. That this extraordinary demand is clearly made the bill itself shows; and the memorial of the major expressly puts his claim for restoration on the plea that he was, "without authority of law," placed on the list of unassigned officers, from which list were chosen those who were, under the law, afterwards mustered out.

A brief summary of the law and the facts will overturn the claim that he was mustered out without legal authority. Section 2 of the Army appropriation act of March 3, 1869, stopped all new appointments, all promotions, all enlistments, until the total number of infantry regiments should be reduced from forty-five to twenty-five, and the consolidation of infantry regiments was made obligatory on the Secretary of War. In pursuance of this law the Secretary of War (in General Orders No. 16) consolidated the Second Regiment (to which Collins belonged) with the Sixteenth Regiment.

Order 17, from the Headquarters of the Army, March 15, 1869, announced the officers of the consolidated regiment, and ordered all officers, field and line, not so assigned, to their homes to await orders. A large number of officers were thus left unassigned, or "supernumerary," and the assignment of all was, by law, discretionary with the Secretary of War. The act of July 15, 1870, provided for the final discharge of supernumerary officers, and, in section 3, authorized their muster out honorably, with a year's pay. Major Collins was so honorably mustered out and accepted his year's pay, after he had been refused a decision in his favor to be retired because of wounds or disabilities received in the service. Without inquiring too nicely into the reasons

which induced the War Department to muster out Major Collins rat than to assign him to one of the consolidated regiments, it is suffici to say that law existed for his muster-out, and that no good reason pears why a bill should pass the Senate to treat his discharge as eit a nullity or a grievance.

And if his discharge carries with it no dishonor, it is difficult to wherein his claim to restoration to the Army at all can be pressed a "right," while it is more difficult to see why he shonld be placed b in his old rank in the Army, even if his claim of right to re-enter service were allowed. And so his demand to be retired at the rank would "now" hold if he had remained in the Army is totally inadı sible. He was discharged honorably because a law ordered a reduct of the Army. That law made a provision for those whose services w no longer needed. Whether that provision was generous or parsim ous it is not now our province to discuss. Major Collins accepte the pay the law donated to discharged officers, and, so far as the fa go, was, when discharged, a civilian. Like any other civilian, he ha right to re-enter the Army if the country requires his services; but are unable to see in his case any claim to be put back in any partict rank which is superior to that of any other civilian who has equal perience, education, and military gifts with himself.

In view of these considerations, and notwithstanding Major Colli long and honorable service, the committee are constrained to ask tc relieved from the further consideration of this subject, and to rec mend that the bill be indefinitely postponed.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 68.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 119.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 119) to remove the charges against Lieut. Charles Wilkinson, late of Company K, One hundred and second Regiment Pennsylvania Volunteers, on file in the War Department, beg leave to report:

That said Lieutenant Wilkinson entered the Army as a private in the three months' troops; that upon the conclusion of his term of service he enlisted as second sergeant in the One hundred and second Pennsylvania Volunteers; that he was promoted to be first lieutenant of his company and commissioned July 1, 1863, and continued as such until May 24, 1864. Having re-enlisted on the conclusion of his term of service as a "veteran," he was, by existing law, entitled to a leave of thirty days; but, yielding to the necessities of the service, he remained on duty, while the officers of his regiment went home to enjoy their furlough. During that time he was ordered on picket-duty, and immediately after reaching the post to which he had been assigned he was put under arrest. Inquiring why his sword was taken from him, his colonel, who ordered him under arrest, answered him that he knew of no reason for it. But a general court-martial convicted Lieutenant Wilkinson of "drunkenness on duty," and he was cashiered.

While awaiting the judgment of the court the battle of the Wilderness was fought. The captain of Lieutenant Wilkinson's company not having yet arrived, the lieutenant borrowed a sword and gallantly led his men during the first day and night, and the second day and until midnight of the second night, when the return of his captain enabled this gallant soldier to retire, utterly worn out, from the field. From this prostration his delicate frame never recovered, and he died. His wife sought to have the stain left on her husband's name by the sentence of the court-martial removed, and to that end filed a mass of testimony as to her husband's good character, his freedom from intemperate habits, and his signal gallantry. But the War Department was unable to afford relief, and Congress alone can do so. In reviewing the case, the Judge-Advocate-General avers that his character and habits were good, and his bravery conspicuous; and suggestively adds that if the evidence submitted to induce a removal of the disgrace could have been presented to the court, it is doubtful if the officer would have been found guilty; and he then recounts his action in the battle of the Wilderness, con-

cluding with these words, "conduct which it is believed would have justified his restoration to duty without trial."

In such a case, the committee feel themselves impelled to report favorably on the bill clearing the memory of Lieut. Charles Wilkinson from the odium resting upon it in the records of the department, and so recommend the passage of said bill herewith submitted.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 69.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 162.]

The Committee on Military Affairs, having considered the bill (S. 162) for the relief of James Cliff, present the following report:

This bill proposes to pay to James Cliff the pay of a captain of cavalry from the day Gov. Andrew Johnson commissioned him a captain of a company of mounted guards to the day when he was mustered into the service of the United States as a member of the Fifth Tennessee Cavalry, to wit, from September 19, 1863, to March 26, 1864, six months and seven days. The recognition of such claims would lead to endless trouble and labor, and overturn the rule which prevents the United States Government from recognizing as federal soldiers all State troops until they are mustered into the federal forces.

Wherefore the committee asks to be relieved from the further consideration of the subject, and that this bill be indefinitely postponed.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 70.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Agreed to and ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

The case of William Kearney is not one requiring special legislation, but is provided for by the pension laws. The Commissioner of Pensions rejected the claim for want of satisfactory evidence that varicose veins, the alleged disability of Kearney, was incurred in the service and in the line of duty. Any additional evidence tending to establish that fact may still be presented to the Pension Office. None has been submitted by the claimant to the committee, and they should be discharged from the further consideration of his petition.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 71.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Agreed to and ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Invalid Pensions have had under consideration the petition of John B. Dunbar, and report:

That Dunbar enlisted on the 11th day of February, 1863, in the Sixteenth Massachusetts Light Artillery, and was honorably discharged on the 27th day of June, 1865. He alleges that he suffered an injury from the recoil of a cannon at Fairfax Court-House, Va., which fractured his breast-bone and dislocated two ribs in his left side. His claim was rejected by the Commissioner of Pensions because the claimant failed to produce any evidence other than his own statement as to the time, place, and circumstances under which the alleged injuries were received. In his petition for special act he sets forth that he has made due and diligent search for such testimony, but has been unable to obtain it.

He furnishes no evidence except his own affidavit, which the committee regard as being insufficient to establish his claim.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 72.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

The Committee on Military Affairs, having considered the petition of Catherine T. Campbell, and the accompanying papers in the case referred to them, present the following report:

This petitioner asks Congress for redress and relief for the death of her son, David F. Campbell, which death occurred under the following circumstances: A squad of soldiers were taking to the depot at Broad street and Washington avenue, in the city of Philadelphia, a party of recruits for the Army, on March 25, 1865. One of the recruits attempted to desert on the way to the depot, and the squad in charge fired upon him. A shot from one of the muskets discharged entered the body of the lad Campbell—aged 13—and he died from the effects of the wound thus inflicted. Mrs. Campbell sets forth the loss of her son's society, and the support he would have afforded her, had he lived, and asks relief. While the committee unite in sympathy with the petitioner, they are of the opinion that acts which are rendered necessary in times of war or disorder are not open to the same sharp criticism justly applied to acts of a like nature in times of peace and public tranquillity. And, considering the necessity for the firing which unfortunately resulted in young Campbell's death, they cannot reach the conclusion that the United States are liable for damage arising from that act.

Wherefore the committee ask to be relieved from the further consideration of the subject.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 73.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 5, 1878.—Agreed to and ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

The Committee on Military Affairs, to whom was referred the petition of Nicholas Vedder, together with the accompanying papers, for the relief of said Vedder, having considered the same, submit the following report:

This petitioner asks that a bill be passed relieving him from a charge now against him for $1,500, and that he may have refunded to him out of the Treasury $6,500. The allegation in support of the first of these claims is that by an error in addition he has been charged $1,500 more than should justly be charged to him, and the Committee of Claims, reporting on this case on April 3, 1876, say: "When the entire record is examined—and we have abstracted it very fully—it will be found that there is no testimony whatever to support the alleged mistake of over-addition." This committee is equally unable to find any sufficient evidence to substantiate this part of the claim. The item of $6,500 Paymaster Vedder alleges was stolen from him in New Orleans, but the only evidence he produces is that one Major Hoel K. Lawrence must have taken the money, because Lawrence was afterward tried by court-martial and dismissed. Ex-Senator Wright, in reviewing the evidence, declares:

> It is not claimed that he (Vedder) did not receive from the chief paymaster all the money with which he is charged. * * * Being thus properly charged, it devolves upon him to show that the loss occurred under such circumstances as that he should in equity, if not in law, be relieved.

Nothing in the nature of evidence has been submitted to this committee which the Committee of Claims had not before them when Judge Wright said what is here quoted from his report. All that appear to be new in these papers—if, indeed, they be new—are a lengthy argument attacking the report mentioned, and two papers marked Exhibits B and C. Exhibit B is a condensed statement of Vedder's account, by himself, and Exhibit C is an affidavit from James L. Cramer, late a paymaster in the United States Army, swearing that Major Lawrence (the alleged thief) was a very bad man, and that Major Vedder bears an excellent character. Even if this evidence is new, it requires a stretch of the imagination to call it important, for Lawrence was dismissed the Army for acts notoriously bad, while the Committee of Claims take especial pains to place on record their high appreciation of the character of Major Vedder.

In short, there is no evidence before this committee to justify them in recommending the passage of a bill for Mr. Vedder's relief; nor does there appear to be anything new in the case to justify its being taken from the files, where the adverse report of the Committee of Claims placed it, and having it rereferred to this committee, if the requirements of rule 58 be applied to it.

The committee, therefore, ask to be relieved from the further consideration of the case.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 74.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1878.—Ordered to be printed.

Mr. WHYTE, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 18.]

The Committee on Naval Affairs, to whom was referred the memorial and bill presented by the Albemarle and Chesapeake Canal Company, have had the same under consideration, and submit the following report:

This subject was duly considered by the Committee on Naval Affairs of the Senate at the first session of the Forty-fourth Congress, and a bill was favorably reported to and passed by the Senate, but failed to pass the House of Representatives. The reasons which governed that committee seem equally cogent now, and this committee adopts the reasoning of the former report, as follows:

"The Albemarle and Chesapeake Canal Company, as disclosed by the papers, was in process of construction when the war broke out. Much of its capital stock and all of its bonds were held by a Mr. Cartwright and other Northern capitalists. When the government forces obtained possession of that country between Elizabeth River and Albemarle Sound, after many propositions for the United States to advance money to open the canal and keep it in order, all of which failed, the bondholders put it in condition for use, and it was largely used by the War Department, and tolls duly paid by agreement. In October, 1862, a specific contract was made, by which the United States was to allow the present rates on tonnage of vessels and boats in full, less 10 per cent. for all troops, &c.

"The canal company was paid on the government vessels up to March, 1863. No payment was made by the War Department for tonnage after April, 1863. The use of the canal by vessels in the service of the Navy Department (upon which the present claim is founded) was not considered by the War Department. The canal company now claim as due from the Navy Department, for tolls, from January 10, 1864, to July 27, 1866, the sum of $4,158, less 10 per cent., making the net claim $3,742.20. The Navy Department refused to pay this claim on account of the act of July 4, 1864, the provisions of which authorized the Quartermaster-General and Commissary-General of Subsistence to examine similar claims, but which have conferred no such power on the Navy Department. While the passage of the act before cited did not, in the opinion of the committee, preclude the Navy Department from passing upon this claim and having it paid (its correctness being easily verified by the records of that department), yet, for the purpose of relieving the case of all difficulty, the committee report the accompanying bill and recommend its passage."

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 75.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1878.—Ordered to be printed.

Mr. SARGENT, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bills S. 429 and S. 495.]

The Committee on Naval Affairs, to whom were referred the bill (S. 429) for the relief of Isabella R. McGunnigle, widow of Lieut. Com. Wilson McGunnigle, United States Navy, and the bill (S. 495) for the relief of Thornton A. Jenkins, respectfully report:

That the cases involve substantially the same facts and are to be determined upon the same principles. The views of the committee are fully expressed in the following letters of the Secretary of the Navy. They therefore report the bills back adversely, and ask to be discharged from further consideration thereof, and that they be indefinitely postponed:

NAVY DEPARTMENT,
Washington, January 31, 1878.

SIR: I have the honor to acknowledge your reference to this department of Senate bill 429, for the relief of Isabella R. McGunnigle, widow of Lieut. Com. Wilson McGunnigle, United States Navy.

The bill provides for the payment to Mrs. McGunnigle the difference of pay between that of master and lieutenant, from the date of her husband's promotion to the grade of lieutenant to that at which his pay actually commenced as such.

Lieutenant-Commander McGunnigle (then a passed midshipman) was one among the large number of officers advanced under the operation of the act of February 28, 1855, to promote the efficiency of the Navy, by which a reserved-list was established. One provision of the act was, that "officers who may be promoted to fill the vacancies created by the reserved-list shall, while unemployed, receive only the leave-of-absence or waiting-orders pay to which they would have been entitled if such promotion had not been made; but when employed at sea, or on other duty, they shall receive in addition to such leave-of-absence or waiting-orders pay the difference between the waiting-orders or leave-of-absence pay and the lowest sea-service pay of the grade to which they may be so promoted." It further provides that nothing contained in the act should be construed to "authorize any increase of the aggregate pay of the said grades, or of the naval service," as then allowed by law.

It will be observed that this act established what was defined in the pay-table published in the Navy Register of 1856 and several years thereafter, and by which the accounting-officers were guided, two conditions of pay, one "full pay," the other "reduced pay."

The creation of a reduced pay for those promoted under the operation of the act was a leading argument in favor of its passage, and, to guard against any such increase, it provided, as above stated, that under its operation there should be no increase in the aggregate pay of the several grades, or of the naval service. It may be looked upon in the nature of a contract between those who were promoted by the operation of the act and the government, independently of the fact that their pay was legally fixed by it.

The number of promotions was large, and any new provision of law to give full pay where reduced pay was received, should be general and not special; the claims of all are equal.

It is for Congress, with the facts before them, to decide upon the policy or justice of such legislation, and, if they decide favorably, to make the necessary appropriation therefor.

I am, sir, very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. A. A. SARGENT,
Chairman Committee on Naval Affairs, United States Senate.

NAVY DEPARTMENT,
Washington, February 4, 1878.

SIR: I have the honor to return herewith Senate bill 495, for the relief of Thornton A. Jenkins, a rear-admiral on the retired-list of the Navy, referred by you to the department for any information it can afford in regard to the same.

The bill proposes to pay Rear-Admiral Jenkins such sum of money as shall be found to be the difference between the lawful pay of a commander in the Navy, according to the different duties he performed, and that of a lieutenant in the Navy, from September 14, 1855, the date of his promotion from the grade of lieutenant to that of commander, to June 1, 1860, the date of the act changing the pay of the officers of the Navy.

Rear-Admiral Jenkins was promoted from a lieutenant to a commander by the operation of the act of February 28, 1855, to promote the efficiency of the Navy, and is one of a large number of officers who were similarly promoted and whose claims stand on the same footing.

The department had occasion on the 31st ultimo to communicate to the Naval Committee of the Senate the facts respecting the claims of this class of officers for difference of pay, upon the bill for the relief of Mrs. Isabella R. McGunnigle, widow of the late Lieut. Com. Wilson McGunnigle, the material points of which apply to the bill for the relief of Rear-Admiral Jenkins.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. A. A. SARGENT,
Chairman Committee on Naval Affairs, United States Senate.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 76.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1878.—Ordered to be printed.

Mr. SARGENT, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 632.]

The Committee on Naval Affairs, to whom was referred the bill (S. 632) for the relief of William H. Cornell, make the following report:

William H. Cornell was an acting third assistant engineer on board the United States steamer Winnebago during the late war, and was prostrated by sickness while in the discharge of his duty, and sent to the hospital at Memphis. While he was in the hospital at Memphis the Winnebago made certain captures in Mobile Bay. When the prize-list was made out his name was omitted, for no assigned reason, and he never received any portion of the prize-money to which he was entitled by law, and which is still due to him. The amount so due to him is $236.51.

We report the bill back, and recommend its passage.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 77.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1878.—Ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 235.]

The Committee on Claims, to whom was referred the bill (S. 235) *for the relief of Joseph Kinney, administrator of the estate of David Ballentine, deceased, report as follows:*

On June 17, 1874, during the session of the Forty-third Congress, the Committee on Claims made the following report, to wit:

[Senate Report No. 458, Forty-third Congress, first session.]

Mr. MERRIMON submitted the following report, to accompany bill S. 952:

The Committee on Claims, to whom were referred the petition and accompanying papers of J. Kinney, administrator, &c., of the State of Missouri, have had the same under consideration, and make this report:

In the year 1861, and before that time, David Ballentine, sr., resided in the town of Boonville, in the county of Cooper, in said State, and owned a large foundery, situate in said town, which was well supplied with engines, boilers, lathes, molds, and other machinery necessary for the business of a founderyman.

About the 9th of June, in 1861, said foundery, and all the fixtures, stock, and supplies connected therewith, were taken possession of by the United States troops, by and in pursuance of the order of General N. Lyon, and held by them while they remained at said town, several days; that when General Lyon determined to leave said town he ordered the troops under his command to destroy said foundery and all the fixtures, stock, and supplies connected therewith, in order to prevent the same from passing into the possession and use of the Confederate troops, who it was confidently expected would soon take possession of the same and use them for the purpose of the manufacture of arms and other munitions of war. The Confederate troops were not present or approaching when General Lyon and his forces left said town, but it was expected, and there was reason for such expectation, that they would soon take possession of it. The foundery, &c., were deemed of great importance to the Confederates. And therefore General Lyon ordered said destruction of said property, at the time assuring Mr. Ballentine that the government would pay for it. The property was burned and completely destroyed. The cause stated was the sole cause for the destruction of the property.

The property so destroyed was estimated by many witnesses at from $20,000 to $25,000, but the proof as to its value is not definite.

Mr. Ballentine always adhered to the United States, and his good faith is not and was not questioned. He died in the year 1863, and afterward the petitioner was duly appointed by the proper court administrator upon his estate. The petitioner has never received any compensation for the property of his said intestate so destroyed, nor did the latter, or any one for him, in his life-time.

The facts as stated are well established by sundry witnesses, some of whom were officers and soldiers in the Army.

Upon consideration the committee think that said property ought to be paid for, and recommend that the petitioner, as administrator aforesaid, be paid the sum of $10,000 for the same, and report the accompanying bill, and recommend that the same be passed.

Again, on June 19, 1876, the Committee on Claims had the same subject-matter under consideration, and adopted the report heretofore referred to.

Your committee find said report fully sustained by the evidence in the case, and adopt the report made on said June 17, 1874, as the report of this committee, and recommend the passage of the bill.

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IN THE SENATE OF THE UNITED STATES.

MAY 22, 1878.—Ordered to be printed.

Mr. HOAR, from the Committee on Claims, asked and obtained leave to submit the following as the

VIEWS OF THE MINORITY:

[To accompany bill S. 235.]

The undersigned, members of the Committee on Claims, to whom was referred the bill (S. 235) for the relief of Joseph Kinney, administrator of the late David Ballentine, cannot concur in recommending the passage of the bill.

The petitioner seeks compensation for a foundry, the property of his intestate, destroyed by order of the commander of the forces of the United States to prevent its falling into the hands of the enemy. The foundry was in Missouri, a State not in rebellion, but in territory actually the theatre of war. The circumstances authorized the commander to use his discretion in giving this order, otherwise the commander would have been a trespasser, liable to the owner's suit, and no claim against the government would exist. (Mitchell *vs.* Harmony, 13 How., 116.)

The destruction of the property was a lawful act of war, and must be presumed to have been proper and necessary, as the officer in command so determined. The question is of the duty of the government to make compensation.

We deem it quite clear that this is not a case of taking private property for public use within the meaning of article 5 of the amendments to the Constitution. That amendment was not intended to apply to or regulate the operations of war. The taking of private property for public use, to which the Constitution here refers, is illegal unless the same law which provides for the taking provides for and secures compensation to the owner. It will not do to take the property first, and pass a law giving indemnity afterward. The military commander would have a right, notwithstanding this clause of the Constitution, to arrest and imprison, anywhere within his lines, a person whom he suspected of being a spy, without any process of law whatever; and he has the same right to destroy property within the field of his military operations, if its continued existence be, in his judgment, a military danger.

The claim for compensation then does not rest upon the Constitution of the United States. It must be established, if at all, by other considerations. We have no doubt that there are obligations resting upon the United States as a civilized nation toward its own citizens, not expressly declared in the Constitution, but growing out of the laws and

usages of nations or out of the plain dictates of justice, and that these obligations must operate as a constraint upon Congress to pass the legislation needed to give them effect. But of the existence and extent of these obligations Congress is the sole judge. The opinions in regard to them of writers on public law, or even of judges, are entitled only to the respect due to the individual judgment of their authors. Except in the cases in which by express statute jurisdiction has been given to judicial tribunals of claims against the government, opinions expressed by courts upon these questions must be not only mere *obiter dicta*, but *dicta* in regard to matters solely cognizable by another department of the government. Of this class is the remark of Taney, Ch. J., in Mitchell *v.* Harmony, 13 How., 13 and that of Clifford, J., in United States *v.* Russell, 13 Wallace, 624, so far as it relates to the obligation of the government to make compensation for property destroyed to prevent its falling into the hands of the enemy.

This is not the case strictly of a *use* of property by the public. Neither is it the case strictly of a *taking* of property by the public. By the act of the enemy, for which no fault can be imputed to the petitioner, he being a loyal citizen of a State not in rebellion, his property became itself a public danger, and it was destroyed as such. The act which caused the loss was the destruction of the enemy's resources. It was done in the discretion of the commander, who had been placed by the government at the head of an armed force for that very purpose. It is difficult to draw a line which shall distinguish, in principle, the partial deprivation of the owner of the benefit of his property by occupying it with an army to prevent a like occupation by the enemy, and a total deprivation with the same purpose by its destruction.

There are two classes of cases in which government, for public ends, deprives the citizen of his property either in war or peace. One is the exertion of the right of eminent domain by which property is taken for public use. This may be for a military use as well as for a peaceful one, as to build a fort or ship, or supply an army. It is, under our government, exerted by the legislative authority either directly or by delegation. The other is the right of necessity, where property is used or destroyed to avert an imminent danger, or supply an immediate and pressing necessity of such a character that private interests must yield to it. Of this class are the destruction of dwellings to prevent the spread of a fire, the building of bulwarks on private ground, the entering houses to prevent felonies or arrest offenders, and the like. We think the error of those persons who insist on the obligation of government to make compensation in cases like the present, is in placing them in the first of these divisions. They seem to us to belong to the second. The conflagration of Moscow, the laying Holland under water by destroying the dikes, the destruction of Athens when her people took to their ships were not process of law, or exercises of the right of eminent domain. They were the acts of self-defense of nations in a death struggle, justified only by that overwhelming necessity of self preservation which for the time being exonerates individuals and nations from all legal restraint whatever.

These considerations make it our duty to refuse our assent to a bill which provides for payment of damages to this individual as a claim, concerning which Congress has no moral right to exercise a discretion.

We do not mean to call in question the power of Congress, in the exercise of a sound discretion, to make some compensation to individuals whose property has been sacrificed for the public good, and who have thus borne a share of the burden of the war beyond that of their fellow-

citizens at large. But this discretion should only be exercised, if at all, by a general law, after carefully ascertaining the number of cases to be affected, and with full knowledge of the extent of the pecuniary burden to be assumed. The amount of loss should never be left to be shown by *ex parte* testimony alone. It does not come within the scope of the authority of this commi ttee to frame or consider such a measure.

GEO. F. HOAR.
S. J. R. McMILLAN.
ANGUS CAMERON.
H. M. TELLER.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 78.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1878.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 685.]

The Committee on Claims, to which was referred the bill (S. 33) for the relief of R. W Corbin and others, have duly considered the same, so far as the rights of Mr. Boyden are affected, and submit the following report:

Your committee referred the bill to the Secretary of the Treasury, with a letter asking for information and facts touching the claim, and received from the Acting Secretary the following answer:

TREASURY DEPARTMENT, *November* 1, 1877.

SIR: I have the honor to acknowledge the receipt of your letter of the 24th ultimo, inclosing a copy of a bill for the relief of N. Boyden, for rent of a house, and calling for such information as may be in possession of this department touching the same.

The Third Auditor of the Treasury states that the claim of N. Boyden in his office is for $75, being the amount of three vouchers issued to him by Lieut. H. C. Long, of the One hundred and twenty-eighth Indiana Volunteers, for rent of one house, used as post-headquarters from January 1 to March 31, 1866, at $25.

The claim was disallowed, under the provisions of act of Congress of February 21, 1867, which prohibits payment of this class of cases.

The bill is herewith returned, as requested.

Very respectfully,

R. C. McCORMICK,
Acting Secretary.

Hon. F. M. COCKRELL,
United States Senate.

Your committee addressed another letter to the Secretary of the Treasury, asking for the vouchers and papers relating to said claim of N. Boyden, and received from him all the vouchers and papers, and among them were the following accounts, to wit:

No. 22.

The United States to N. Boyden, Dr.

	Dolls.	Cts.
Salisbury, N. C., January 31, 1866.—For rent of four (4) rooms, used as headquarters district Western North Carolina, by Col. J. Packard, from January 1, 1866, to January 31, 1866 (inclusive), one month, at twenty-five dollars per month	25	00

Approved:

JASPER PACKARD,
Colonel One hundred and twenty-eighth Indiana, Commanding District.

I certify that the above account is correct and just, that the services were rendered as stated, and that they were necessary for the public service, and has been entered on my report of persons and articles hired for the month of January, 1866, for the time above charged.

H. C. LONG,
First Lieutenant and R. Q. M. One hundred and twenty-eighth Indiana, and A. A. Q. M., D. W. N. C.

No. 22.

The United States to N. Boyden, Dr.

	Dolls.	Cts.
Salisbury, N. C., March 31, 1866—For rent of one house used as post-headquarters from March 1, 1866, and March 31, 1866 (one month), at twenty-five (25) dollars per month	25	00

Approved:

JASPER PACKARD,
Colonel One hundred and twenty-eighth Indiana Vols., Commanding Post.

I certify that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, and have been accounted for on my Form 2, for March, 1866.

H. C. LONG,
First Lieutenant and R. Q. M., One hundred and twenty-eighth Indiana Vols., and A. A. Q. M.

No. 22.

The United States to N. Boyden, Dr.

	Dolls.	Cts.
Salisbury, N. C., February 28, 1866—For rent of one house (4 rooms) used as post-headquarters, Salisbury, N. C., from February 1, 1866, to February 28, 1866 (one month), at twenty-five dollars per month	25	00

Approved:

JASPER PACKARD,
Colonel One hundred and twenty-eighth Indiana Vols., Commanding Post.

I certify that the above account is correct and just; that the services were rendered as stated, and that they were necessary for the public service, and have been reported on my Form 2, for the month of February, 1866.

H. C. LONG,
First Lieutenant and R. Q. M., One hundred and twenty-eighth Indiana Vols., and A. A. Q. M.

The above accounts were on the usual blanks known as Form No. 22, partly printed and partly written. The action of the department upon said claim is shown by the following letter among said papers, to wit

TREASURY DEPARTMENT, THIRD AUDITOR'S OFFICE,
October 29, 1877.

Respectfully returned to the Hon. H. S. French, Assistant Secretary.

The claim of N. Boyden in this office is for $75, being the amount of three vouchers issued to him by Lieut. H. C. Long, of the One hundred and twenty-eighth Indiana Volunteers, for rent of one house used as post-headquarters from January 1 to March 31, 1866, at $25. The claim was disallowed under the provisions of act of Congress of February 21, 1867, which prohibits payment of this class of claims. Papers in claim transmitted herewith.

HORACE AUSTIN, *Auditor.*

The Quartermaster-General's Department refused to pay the claim for the same reason.

The act of February 21, 1867 (vol. 14, U. S. Stat. at L., p. 397), provides that the act of July 4, 1864, "shall not be construed to authorize the settlement of any claim for supplies or stores taken or furnished for the use of or used by the armies of the United States, nor for the occupation of or injury to real estate, nor for the consumption, appropriation, or destruction of or damage to personal property by the military authorities or troops of the United States, where such claim originated during the war for the suppression of the Southern rebellion in a State or part of a State declared in insurrection by the proclamation of the President of the United States, dated July first, eighteen hundred and sixty-two, or in a State which, by an ordinance of secession, attempted to withdraw from the United States Government."

On April 2, 1866, the President, by proclamation, declared that the

insurrection in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, and Mississippi was at an end.

Under said act of February 21, 1867, the departments have declined to pay any claims originating in the insurrectionary States from the beginning of the insurrection to the date of the President's proclamation declaring the insurrection at an end, whether such claims arose under contracts or otherwise. And thus all persons whose just claims are based upon an express contract between themselves and the proper officers of the government made within the limits of the insurrectionary States within the period above named, are forced to appeal to Congress for relief.

This claim arose out of a contract between the claimant and the proper quartermaster, was duly signed, certified, and reported by said quartermaster, and approved by his commanding officer, and the estate of the claimant is certainly entitled to the amount specified in the contract.

Your committee report a substitute for the bill, and recommend the passage of the substitute so reported.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 79.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1878.—Ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 686.]

The Committee on Pensions, to whom was referred the petition of Mary Emma Baptist, having had the same under consideration report:

The claimant alleges that she is the widow of John Baptist, a private in Company A, Twenty-fourth Regiment United States Colored Troops; that she was married in May, 1861. As the fruit of said marriage a female child, named Daisy, was born in April, 1865. That her said husband died in the military service of the United States at Camp William Penn, Pennsylvania, March 31, 1865, and she claims the benefit accruing to herself and child under the provisions of the pension laws of the United States.

The arrears of pay and bounty due said deceased John Baptist were paid to Mary Emma Baptist, the claimant, by the Second Auditor of the Treasury, and she filed her claim for pension December 16, 1865. This claim was pending before the Pension Bureau until March 30, 1877, when it was rejected upon the grounds that the claimant was not the lawful widow of John Baptist, deceased.

The difficulties attending this class of cases is recognized in section 4705 of the Revised Statutes, which reads:

> The widows of colored and Indian soldiers and sailors who have died, or shall hereafter die, by reason of wounds or injuries received, or casualty received, or disease contracted, in the military or naval service of the United States, and in the line of duty, shall be entitled to receive the pension provided by law without other evidence of marriage than satisfactory proof that the parties were joined in marriage by some ceremony deemed by them obligatory, or habitually recognized each other as man and wife, and were so recognized by their neighbors, and lived together as such up to the date of enlistment, when such soldier or sailor died in the service, or, if otherwise, to date of death; and the children born of any marriage so proved shall be deemed and held to be lawful children of such soldier or sailor, but this section shall not be applicable to any claims on account of persons who enlist after the 3d day of March, 1873.

And in establishing the fact of marriage the proof must conform to the requirements of this section, and no more is necessary.

The claimant alleges that she was married by the Rev. Mr. Long in September, 1861, in the city of Baltimore; that he was a visitor in said city, and left on the day succeeding the marriage and did not put on record evidence of the marriage; and that said Long shortly thereafter died, so that first-class proof, either by the testimony of the minister or the official record of his act, is lacking.

In lieu of this, when her claim for arrearages and bounty was pending before the Second Auditor, she adduced the testimony of two wit-

nesses present at the time the ceremony was performed, namely, Melvina Collins and Nica Ferao; and when she filed her claim before the Pension Bureau she adduced the testimony of two other witnesses alleged to have been present, named Susie Cyst and Annie Long.

As further proof of marriage—proof which not only presumptively sustains the claim of a formal marriage according to ecclesiastical usages, but of a valid marriage within the contemplation of section 4705 referred to—Messrs. Kearney and Tate testify that John Baptist and Mary Emma Baptist habitually recognized each other as man and wife, and were so recognized by their neighbors, from the time of the alleged marriage to the time of enlistment in the military service, and even to the time of the death of said Baptist. Messrs. Kearney and Tate testify specifically upon this point, their testimony covering the time from June, 1861, to September, 1863, during which period the witnesses lived at the house of the claimant and her alleged husband in the city of Baltimore, and from September, 1863, to June, 1864, when witnesses boarded with the claimant and her husband in Philadelphia.

Their testimony is corroborated by the testimony of Rev. Mr. Lung and wife, of Germantown, with whom the claimant lived as a servant from October, 1864, to March, 1865, and during which period, until the death of John Baptist, March 30, 1865, said Baptist frequently visited the claimant and recognized her as his wife, and Daisy as his child. As corroborative evidence, the testimony of Mr. and Mrs. De Schields and Mr. and Mrs. Conner is also adduced.

The birth of the child Daisy is satisfactorily proven by the testimony of Susie Cyst and Annie Long, and Drs. Rogers and Armstrong.

In estimating the testimony, and the validity of the claim resting upon it, attention is called to the presumption created for the claimant's title to marriage by the adjustment of the claims for arrearages and bounty before the Second Auditor.

Vigilance and competency must be conceded to these officers, and at that period it was not only easier to have established a claim, but a defect could have been more readily detected in the title of the marriage if such had existed.

The fact that the officers making the settlements in behalf of the government were satisfied, and recognized the validity of the marriage, creates a presumption in favor of its validity which cannot be destroyed, except by producing strong and satisfactory evidence of fraud.

The Pension Bureau bases its rejection of the claim on alleged illegality of the marriage claimed, and it judges this to have been invalid because of conflicting statements relative to dates of marriage, date of birth of the child Daisy, made by Mrs. Baptist, the claimant, or by Annie Long, one of the witnesses, and also suggests that there are contradictions on points of time between the several witnesses, concluding that these statements and supposed discrepancies create a suspicion not only of the veracity of the witnesses, but a conspiracy to perpetrate a fraud on the part of the claimant.

It is submitted that discrepancies existing between statements made at different times by a witness, and also differences in the statements, on non-essential points, between different witnesses testifying to the same facts, do not imply either lack of integrity in the witnesses or a fictitious character in the facts desired to be established. On the other hand, perfect coincidence in minor points between the different statements on the same subject by the same witness, or the different statements of many witnesses upon the same subject, would argue a degree of perfection in human memory that does not exist, and would create a suspicion

of conspiracy on the part of the parties making the statements to mislead.

The discrepancies referred to are matters of date, things difficult to be remembered by educated people, and leading to confusion and mistakes nearly always among the illiterate and unlearned; and the conflicts that appear in the testimony on questions of date not only do not put in question the truth of the substantial points sought to be established, but are such as would naturally arise under the circumstances, and come in such form and connection as to strengthen rather than weaken the testimony of the witnesses.

It is in evidence that the claimant was not only a slave and uneducated in the simplest rudiments of learning, but a field hand—a class most ignorant even among slaves; also, that she, as appears in the testimony of Drs. Rogers and Armstrong, was subject to epilepsy and other diseases that impaired her memory and affected her reason to such an extent as to make her, at some periods, irresponsible. The discrepancies as to dates of marriage found in her declarations and affidavits, are legitimately referable to her ignorance and infirmities sometimes, and at others to the carelessness of the agents employed to conduct her case and prepare the papers in connection therewith.

Annie Long, who was also uneducated and somewhat confused on the subject of dates, under oath not only corrects her seemingly conflicting statements, but swears that the special agent questioned her in such a way as led to a denial on her part of a knowledge of facts to which she had already testified.

No effort is made to impeach the testimony of marriage upon which the settlement of arrearages and bounty was made by the Second Auditor of the Treasury, nor is it sought to invalidate or impeach the testimony of any parties, appearing by affidavit or otherwise, before the Pension Bureau, except in the case of the claimant herself and Annie Long, the daughter of the officiating clergyman. The testimony of these parties is alleged to be unworthy of credit, on the ground alone of conflict in dates, as already referred to.

It is manifest that the confusion and discrepancies referable to ignorance and carelessness in statement and preparation of the case have been increased by the manner in which the special agent conducted his investigations of the claim.

It is evident from his own report, as well as the statement of the witnesses subsequently made in the form of affidavits, that he propounded leading questions, the significance of which an ignorant person could not understand, and thus elicited answers not only conflicting, but foreign to the truth, and in some cases, by his abruptness and mystery, the ignorant witnesses whom he questioned were led to a denial of some fact of personal knowledge which would have been freely admitted under other and proper treatment of the persons making said denial.

Despite the confusion and conflicts in statement, however, there appears from the testimony of unimpeached witnesses evidence sufficient to establish the validity of the marriage of John Baptist and Mary Emma Baptist, and the identity of the claimant and the birth of the child Daisy, and the committee believe, therefore, that the claim was improperly rejected by the Commissioner of Pensions, and recommend the passage of the accompanying bill.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 80.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1878.—Ordered to be printed.

Mr. McMILLAN, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the petition of Mary A. Blackwelder, of Bradford County, Florida, praying for compensation for cotton taken by the military authorities of the United States, under the captured and abandoned property acts, have had the same under consideration, and submit the following report:

The petitioner claims compensation, under the acts of Congress relating to captured and abandoned property in the insurrectionary States, for one bale of short-staple cotton, four hundred and fifty pounds, at sixty cents per pound $270
And three bales of sea island cotton, ten hundred and fifty pounds, at one dollar per pound 1,050

Making in all 1,320

The petitioner, in her affidavit made before James Tomlinson, clerk of the superior court of Clinch County, Georgia, on the 28th of June, 1871, states that she did of her own accord send word to Maj. E. C. Weeks, Second Florida Cavalry, commanding the post at Cedar Keys, Fla., by one William Edwards, that she desired that he should take charge of said cotton, that he would send for it and turn it over to the United States Government, and see that she was paid for the same. That the said William Edwards, after getting the consent of Maj. E. C. Weeks, commanding post at Cedar Keys, aforesaid, did go to the place as directed by her and got said cotton, and carried and delivered the same for the purpose aforesaid, and who, as she is informed and believes, turned over said cotton to the Government of the United States, to be sold or disposed of for the use and benefit of the petitioner.

Duplicate vouchers, or copies of vouchers, for the cotton, purporting to be signed by Edmund C. Weeks, late major Second Florida Cavalry, commanding post at Cedar Keys, Fla., are among the papers submitted. No date whatever appears upon either of the vouchers, and they are not verified or authenticated in any way. Nor does it appear from any of the evidence submitted at what time the cotton was delivered or taken.

The claim was never presented to the Court of Claims for allowance, and was presented to Congress for the first time on the 8th of November, 1877.

The act of March 12, 1863, relating to claims of this kind, limited the time within which they could be presented to the period of two years after the suppression of the rebellion.

The act approved May 18, 1872, authorized and directed the Secretary of the Treasury "to pay to the lawful owners, or their legal repre-

sentatives, of all cotton seized after the 30th day of June, eighteen hundred and sixty-five, by the agents of the government, unlawfully and in violation of their instructions, the net proceeds, without interest, of the sales of said cotton actually paid into the Treasury of the United States." (U. S. Statutes at Large, p. 134, sec. 5.)

There is nothing to indicate that this claim would come within the provisions of the act approved May 18, 1872. The rebellion was declared to be at an end by the President's proclamation of April 5, 1866. No evidence is submitted which tends to show any attempt to prosecute the claim before the tribunal prescribed by the act of Congress within two years after the suppression of the rebellion, the petitioner's affidavit being dated June 28, 1871. Nor, if the claim was within the provisions of the act of May 18, 1872, was it ever presented to the Secretary of the Treasury. The only excuse for all these laches and all this delay is that stated in the petition submitted to Congress on the 8th of November last, that the petitioner placed her claim for pay for cotton in the hands of certain persons named in the petition several years ago and they neglected to file the same within the time required by law, and that she was not aware that she could claim under act of May 18, 1872, until the six months within which time claims could be filed under that act had expired.

It does not appear that she had placed the claim in the hands of any person within two years after the suppression of the rebellion. It does not appear that it was in the hands of any person after the act of 1872 was passed. If the claim was within the provisions of the act of 1872, her want of knowledge of it was no excuse. But it does not appear, as we have already said, that the claim was within that act.

If a statute of limitations should ever be applied, it should be to claims for compensation for captured and abandoned property under the acts of Congress referred to. The limitations prescribed are none too short, and should be adhered to rigidly.

In the case under consideration we are unable to discover any reason for relieving it from the operation of the bar of the statute.

Your committee recommend that the claim of the petitioner be disallowed.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 81.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 8, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 205.]

The Committee on Pensions, to whom was referred Senate bill No. 205, granting an increase of pension to William Winans, corporal First Regiment New York Cavalry, has examined the case, and find that his application for an increase of pension has been rejected by the bureau, and been *twice* reopened and the condition of the applicant examined by the medical officers of the bureau, who report adversely to the claim for increase. Several affidavits are filed in the case by non-medical persons, all of a negative character; but the opinion of the surgical officers of the Pension Bureau is entitled to more consideration, in the opinion of the committee, on a purely medical question; and they therefore sustain the action of the Pension Bureau, and ask that the bill be indefinitely postponed.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 82.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 8, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 697.]

The Committee on Pensions, having had under consideration the petition of Anna L. Robbins, for pension, report:

That Eliphalet W. Robbins was mustered as second lieutenant of Company A, Third Massachusetts Cavalry, August 31, 1862, and as first lieutenant of the same company and regiment, and was honorably discharged by reason of physical disability by Special Order No. 449, dated December 15, 1864.

He died of tubercular consumption on the 8th or 9th of November, 1875. His widow, in her petition, alleges that the disease of which he died was the result of hardships and exposures during his service in the Red River campaign.

The colonel of the regiment, F. G. Pope, swears that Robbins was, to all appearances, a well man when he entered the service. In the summer of 1863 he was attacked with chills and fever and diarrhea, and afterward, in the Red River campaign, suffered from swamp-fever, brought on by building roads and bridges through the Louisiana swamps. On the return of the regiment from the Shenandoah Valley, Robbins was sent to hospital at Washington, after which he rejoined the regiment, and in December, 1864, was discharged. "To my personal knowledge he never had a well day after his discharge."

Ansell D. Mass was lieutenant-colonel of the Third Massachusetts for several months, during which time he was personally acquainted with Lieutenant Robbins, and, as he was always ready for duty, considered him sound and in good health.

E. L. Noyes was major of the regiment in which Robbins served, for a year after Robbins entered the service. He was to all appearances sound. In the second year he contracted a disease which, with the hardships and exposures of Red River, was the primary cause of his last sickness and ultimate death.

James M. Henry, formerly captain of Company A, and William L. Kelley, a private of the same company and regiment, both testify that Robbins was prostrated with disease contracted in the Red River campaign. From the time of his discharge until his death he suffered very greatly.

Dr. Abbe, of New Bedford, testifies that he attended Robbins in November, 1864, immediately after his discharge, when he was recovering from gastroduodenitis and diarrhea. Two years before his death

he had pronounced symptoms of phthisis. His cough returned, and continued until his death.

Dr. Amasa E. Bigelow, a practicing physician of Barre, Vt., testifies that Robbins came to his house on the 1st of July, 1875, and remained about two months, apparently in the last stages of consumption; has good reason to believe that this disease was brought upon him by exposure in a malarial climate while in the service of the United States.

This claim has been rejected by the Pension Office for the reason that the disease of which Lieutenant Robbins died was not contracted while in the service. Dr. Hood, the medical referee, in a review of the medical evidence in the case, says:

> * * * The death-rate from consumption in Massachusetts is so large that in no case is it necessary to look for extraordinary explanation. Moreover, the average duration of this disease is only about twenty-eight to thirty-six months. I look upon it as certain that all the rational presumptions are against the validity of this claim.

Upon a careful review of the evidence, the committee conclude that as Robbins was discharged for disability, and his disease continued without interruption till his death, the case is entitled to favorable consideration, and they therefore report the accompanying bill with the recommendation that it pass.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 83.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 703.]

The Committee on Pensions, having had under consideration the petition of Melvina A. Maltby, report:

That Jasper A. Maltby entered the service of the United States as captain of Company A, Forty-fifth Regiment Illinois Volunteers, on the 17th day of September, 1861. He was promoted to be lieutenant-colonel of said regiment on September 20, 1861. On the 26th of November, 1862, he was promoted to be colonel of the same regiment, and was made a brigadier-general of volunteers August 4, 18 3. He was wounded at Fort Donelson by a musket-ball through both thighs, and again wounded at the blowing-up of Fort Hill, Vicksburg, Miss., on the 25th of June, 1863, by a piece of shell, in his right side, and died at Vicksburg, Miss., December 12, 1867.

In her petition the widow claims that her husband never recovered from the effects of the wound in his side, and that, although he died of fever, his death was directly traceable to wounds and injuries received while in the line of his duty. She produces the testimony of E. Jones, M. D., who certifies that he was the attendant physician of General Maltby from 1855 until he was mustered out of the service; that he treated him for a wound received at Fort Donelson, and again for injuries received at Vicksburg. His greatest suffering was from the wound in his side, from the effects of which he was an invalid to the day of his death. He states, further, that he is well satisfied that he died from the effects of his wounds received while in the line of his duty.

Dr. F. A. Emmons, of the board of examining surgeons, Chicago, certifies to the good professional standing of Dr. Jones.

Dr. E. A. Duneau, now a clerk in the Pension Office, testifies that he attended General Maltby from the time of his muster-out until his death. Knows that he was broken down by the exposures and hardships encountered and wounds received in the line of duty. He suffered much from his wounds, which were a source of trouble to him rheumatically, the most serious of which was that of the left side, which, in his opinion, produced adhesion of the lungs and other internal derangements.

The petition of Mrs. Maltby is indorsed by Generals Grant, Sherman, Sheridan, and Logan.

The committee consider the claim of Mrs. Maltby established by a preponderance of evidence, and report a bill for her relief, with the recommendation that it pass.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 84.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1878.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 704.]

The Committee on Pensions, to whom was referred the petition of Grace Aikins, widow of William R. Aikins, late a private in Company A, Eleventh Regiment Iowa Volunteers, for a pension, have considered the same and report:

William R. Aikins was drafted and mustered into service as private in Company A, Eleventh Regiment, Iowa Volunteer Infantry, on the 28th September, 1864, at Davenport, Iowa. He died on March 20, 1865, at Mower United States Army General Hospital, Philadelphia, Pa., of phthisis pulmonalis. He and the claimant were married in Morgan County, Ohio, November 30, 1848, and claimant is still his widow, having two children, one born September 30, 1851, the other January 21, 1861, who are still living

Claimant made application for a pension May 9, 1866, and her application was rejected upon the ground that the disease which caused the soldier's death existed prior to his enlistment.

It is clear from medical and other testimony that the soldier's system contained the seeds of consumption when drafted; that efforts were made by himself and friends to prevent his muster-in on the ground that he could not endure the exposure and hardship of the service by reason of the condition of his health, but such efforts were overruled by the examining surgeon, and that such exposure and hardship resulted in the rapid development of his disease and his death.

The committee are clearly of opinion that under the circumstances the government is estopped from denying that the deceased soldier was a sound man when enlisted, and the claimant is entitled to a pension, and they report herewith a bill for her relief, with a recommendation that it pass.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 85.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 11, 1878.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Ellen Truesdell for a pension, have considered the same, and report:

Samuel Truesdell was enrolled and mustered into the service as a recruit in the Seventy-first Regiment Pennsylvania Volunteers, at Philadelphia, April 21, 1864, to serve three years; was transferred to Company F, Sixty-ninth Regiment Pennsylvania Volunteers; was captured at Petersburg, Va., June 22, 1864, and sent to Richmond, Va., thence to Lynchburg, Va.; was paroled at Northeast Ferry, North Carolina, February 27, 1865; was furloughed for thirty days; returned to his regiment April 13, 1865; was sent to Camp Distribution, Virginia, May 4, 1865, and was honorably discharged July 1, 1865. Some time after his discharge he and his wife (the claimant) removed to Manchester, N. H., where he died February 12, 1872.

The evidence shows that he and the claimant were married in Ireland in July, 1849, and had living at the time of his death four children, born respectively March 12, 1853, August 12, 1857, November 18, 1868, and December 22, 1869, of whom the eldest died August 1, 1874, and the youngest died July 24, 1874. Claimant made application for pension July 18, 1876, but has not been able to furnish the testimony of medical and other officers of the regiment to which her deceased husband belonged to establish her claim that her husband died of disease contracted in the service.

The testimony of non-professional witnesses establishes clearly the fact that up to the time of the soldier's enlistment he was a sound, healthy man; and their testimony, and that of three practicing physicians, show that after his discharge and his removal to Manchester he was suffering severely from malarial disease, contracted, according to his own statement, at Andersonville prison, which resulted in consumption and his death.

The committee, not being satisfied that the disease of which the deceased soldier died was contracted while in the service of the United States, report adversely on the petition, and ask to be discharged from its further consideration.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 86.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 724.]

The Committee on Pensions, to whom was referred the petition of Nancy E. McClelland, widow of James D. McClelland, late second lieutenant of Company B, First Tennessee Volunteers, have had the same under consideration, and report:

From the evidence submitted it is clearly demonstrated that Lieutenant McClelland's death was the result of disability contracted while in the service of the United States, and in the line of his duty.

The committee recommend the passage of the accompanying bill.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 87.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1878.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 725.]

The Committee on Military Affairs, to whom was submitted the letter of the Secretary of War, communicating a letter from Maj. Gen. W. S. Hancock, suggesting a change in the one hundred and fourth article of war, and also the report of Judge-Advocate-General Dunn, submit the following report:

The Committee on Military Affairs, after careful consideration of the recommendations for the change in the one hundred and fourth article, are of the opinion that the article 104 should be amended as follows, and recommend the same as a substitute for article 104 of the articles of war: strike out the words "whole proceedings" and insert the word "same."

ART. 104. No sentence of a court-martial shall be carried into execution until the whole proceedings shall have been laid before the officer ordering the court, or the officer commanding for the time being, and the sentence shall thereupon have been formally approved by him.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 88.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1878.—Ordered to be printed.

Mr. BAILEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 372.]

The Committee on Pensions, to whom was referred the bill (S. 372) granting a pension to Adelia K. Clark, widow of Capt. R. B. Clark, late assistant surgeon of the Forty-first Regiment of Wisconsin Infantry Volunteers, beg leave to report:

That it does not appear from the evidence submitted that Rufus B. Clark died of disease contracted while in the service of the United States, and therefore recommend that the committee be discharged from the further consideration of the bill, and that it be indefinitely postponed.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 89.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1878.—Ordered to be printed.

Mr. BAILEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 328.]

The Committee on Pensions, to whom was referred the bill (S. 328) granting a pension to Mrs. Esther A. George, widow of George W. George, late a second lieutenant in Company I, Fifth Regiment New Hampshire Infantry, beg leave to report:

That they have had the said bill, with accompanying papers, under consideration, and find that said George W. George, a second lieutenant as described, while in the military service of the United States and in the line of his duty, was severely wounded at the battle of Antietam, and from exposure on the field of battle after being wounded, and the consequences of the wound, became an invalid, never recovered his health, and died in December, 1875, from the diseases thus originating.

The committee therefore recommend that the said bill shall pass, with an amendment limiting the time from which the pension shall be granted to the day of the passage of the bill.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 90.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1878.—Ordered to be printed.

Mr. EDMUNDS, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill H. R. 3072.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 3072) entitled "An act to authorize a special term of the circuit court of the United States for the southern district of Mississippi, to be held at Scranton, in Jackson County," respectfully report—

That they have had the same under consideration, and recommend that the same do not pass. The circuit court of the United States for the southern district of Mississippi is now provided by law to be held twice in each year, at the city of Jackson. The place where the bill in question proposes to provide for a special term is the county seat of the southeastern county of the State. The county is comparatively sparsely populated, and it is in that county and in the adjacent part of Alabama, chiefly, that the controversies concerning lumber, logs, charcoal, and turpentine between the United States and persons of that region have arisen. While the committee realize the advantage to be obtained in the saving of witness fees and some other expenses by having these causes tried in the place where the disputes arose, they think that the countervailing considerations entirely outweigh the pecuniary saving. These counter considerations are, briefly, that it is thought to be contrary to sound principles in the administration of justice to remove a series of controversies which have considerably excited the public mind from the established and serene forum to the locality in which the excitement exists, whether that excitement be in favor of or adverse to the parties against whom the United States are proceeding; and, although the juries for the trial of these cases might be drawn from other parts of the district, yet the atmosphere of public opinion and excitement in the locality of the difficulties would, we think, be likely to largely prejudice, in one direction or the other, the jurors who should be thus brought there.

The supposed necessity or convenience upon which the bill rests would also be applicable in almost every other section of the country, and cannot properly be limited to the particular instance mentioned in the bill; and we think to provide by a general law for the peremptory removal for trial of the important disputes in all the districts of the United States from the usual places of holding court to the very locality of the excitement and trouble would be destructive of the true interests of justice, and that it is much better for the general good that

the government and parties should sometimes bear a hardship in the way of expense, rather than to hazard the due administration of the law in the mere interest of saving money.

In the case of criminal prosecutions, it is by law now in the discretion of the court to hold special sessions nearer to the place of the events drawn in question than the place of the regular terms; but in most criminal proceedings the prosecutions are usually against a very few persons, and confined to isolated transactions, in respect of which the probability of public excitement and prejudice would not be so great, and even this is left to the discretion of the court and is not at all a command of the law. But it has never been the law that civil causes could thus be removed for trial from the regular places fixed by law.

The committee can see no solid ground upon which the transactions referred to in the bill can be made the subject of a special command by Congress that they shall be heard and disposed of at the place or near the place where the difficulty and the excitement exist.

There are other reasons applicable to the present condition of the matter why the trial of these cases should not be precipitated by Congress, which appear in the letters of the Attorney-General and the Secretary of the Interior, attached to this report.

The committee are unanimously of the opinion that the bill ought not to pass, and recommend that it be indefinitely postponed.

DEPARTMENT OF THE INTERIOR,
Washington, February 11, 1878.

SIR: I have the honor to acknowledge the receipt of your letter of the 7th instant, n closing a copy of bill H. R. No. 3072, entitled "An act to authorize a special term of the circuit court of the United States for the southern district of Mississippi, to be held at Scranton, in Jackson County," and requesting the views of this department thereon.

This act provides for an earlier trial and determination of the suits, forty-nine in number, recently commenced in said court, for the recovery of logs, lumber, &c., alleged to have been taken from the public lands without authority of law, than can be obtained at the regular term of said court.

A speedy trial is always desirable in cases in which the government is a party, providing all of the testimony, necessary or obtainable to establish its rights therein, has been secured. Were these cases thoroughly prepared for trial, other things being equal, I should have no hesitancy in recommending the passage of this act, although very unusual and quite extraordinary in character. This, however, is not the present condition of the cases mentioned in the act, and from information received from the special agent of this department now in Mississippi, I am compelled to admit that they could not be prepared for trial at the time named therein. Such, however, would not have been the condition of said suits at this time but for reasons beyond the control of this department, which will be stated hereafter.

The question naturally arises, however, whether there is any necessity for legislation of this character. These suits were all instituted by the ordinary writ of replevin, provided by the statutes of the State of Mississippi, to which the practice in the United States courts must conform. Under said statutes the defendants may give bond and have the property returned to them. Had such course been taken, it is hardly probable that a measure of this kind would have been pressed upon the attention of Congress. That it was not taken is certainly the fault of the defendants and not of the government. If the defendants in said suits, however, have neglected to give the bonds provided for by statute, either by advice of counsel, or for any other reason, are they now entitled to legislation of this extraordinary character to compel the government to go to trial out of the ordinary course of legal proceedings? If the object sought is to show that the government cannot succeed in any case of this kind in Mississippi, as it has been openly stated by some of her Representatives in Congress, then the more unprepared the cases are for trial, the more certainty there will be in having the assertions proven true.

It is not an uncommon thing for courts to order a change of venue in cases where local prejudice or feeling appears to be so strong against either of the parties that a

fair trial and impartial verdict cannot be obtained. I think it would be considered most extraordinary, however, if any court should order a change of venue in a case from a county where no prejudice or feeling existed against either party, to a county where strong prejudice existed against one of them.

This is precisely the condition of things with reference to these cases. In a report dated the 6th instant, the special agent says:

"At best it will be difficult for the government to obtain a fair trial of these causes in Mississippi, away from the immediate scene of the seizures. It would be much more difficult at Scranton, where *every person* is directly or indirectly engaged in and dependent on the timber-trade. Are the very men who have stripped whole sections and regions of the public timber the proper persons to pass upon the questions at issue? The whole sentiment of these counties along Mississippi Sound is opposed to the action of the government.

"Can the cases be fairly tried by persons selected from, and who are directly and immediately under the influence of such a sentiment? The fact is, that the lumber-trade of Mississippi is dependent for its supply on these robberies of the public lands. Even could the private claims supply the demand they could not stand competition with the lumber-robbers. The great importance to the people of the whole country that these causes shall be submitted to an impartial jury for trial is of paramount interest. That this end cannot be obtained in the locality referred to is my deliberate and sincere conviction."

It may be said that the jurors would be selected from other parts of the State, and hence not be affected by local prejudice. This undoubtedly would be true in the selection of the jurors, but that they would long remain unaffected thereby, when the entire current of feeling is in one direction, cannot be presumed or relied upon.

The government desires only a fair and impartial trial of these cases, and, as at present advised, I am of the opinion that this cannot be obtained at the place named in the act.

The above, however, is not the most serious objection to the passage of said act.

The appropriations heretofore made by Congress for suppressing depredations upon the public lands have been very small, and entirely inadequate to an extensive and vigorous prosecution of the work.

The system of charging stumpage for timber cut upon the public lands, which was adopted in 1854, and continued with slight modifications until April last, failed to accomplish the desired object, or to secure to the government an adequate compensation for the loss and injury sustained by reason of such trespasses.

Numerous reports having reached this department of extensive depredations upon the public lands in several of the States and Territories containing valuable timbered lands, upon consultation with the Commissioner of the General Land Office, a new system was adopted, for the purpose of suppressing future depredations and recovering the damages sustained for those already committed. Under this system clerks were detailed, or agents employed, to visit the several States and Territories, and make a personal investigation of the trespasses alleged to have been committed, and ascertain when, where, and, if possible, by whom such trespasses were committed. After making such investigation, said agents were instructed to report the facts ascertained to this department. Upon the receipt of such reports they are examined, and if the facts reported are considered sufficient to warrant the commencement of legal proceedings to recover the loss and damages sustained, or to punish the parties guilty of committing the trespasses, copies of said reports are transmitted to the Attorney-General with the request that they may be transmitted to the United States district attorney in whose district the lands trespassed upon are situated, with direction to make further investigation in some cases, and, in others, to commence legal proceedings as above mentioned.

In cases where the logs, wood, or lumber cut from the public lands were subject to seizure, and the facts reported seemed to demand prompt action, the Attorney-General has been requested to direct the district attorney to cause such seizure to be made under writs of replevin, or, in case the parties in possession were responsible, by suits in trover.

Thus far, the suits instituted in the manner above mentioned, and properly prepared for trial, when tried have almost uniformly resulted in verdicts in favor of the government. To secure such results, however, it has been found necessary to have a second and more thorough investigation made, and in most cases the tracts trespassed upon resurveyed, and the lines retraced, in order that they may be identified with certainty by the witnesses at the trial. The names and residence of witnesses, by whom the cutting and removal of the logs, &c., from particular tracts by the persons charged can be shown, as well as the identification of the logs seized or demanded with certain tracts, must be ascertained and their testimony obtained.

It is easy to show that some one has committed a trespass, and to establish *prima facie* that the defendant did it, or that he now has in his possession the logs or lumber taken from certain tracts of land, but to prove it conclusively in the face of a reso-

lute and determined defense is quite a different thing, especially where prejudice and popular sentiment are united against you.

The preliminary investigation in all of these cases was performed before the suits were commenced, but the second and equally important one has not been and cannot be made until an appropriation is made by Congress to defray the expenses of agents employed and detailed for that purpose. If the government is compelled to go to trial with these cases at the time named in the act, the defendants will, undoubtedly, secure verdicts in their favor, although I believe it can be shown that nearly all of the property seized was taken from the public lands without authority of law. It will require at least two months, after an appropriation for the employment of agents is made available, to prepare these cases for trial, and I deem it of the utmost importance to the government that each case should be thoroughly prepared.

Where like cases have been tried in other States, and verdicts in favor of the government secured, I am informed that the depredations have entirely ceased. That such will be the result in all of the States and Territories, if the same course is vigorously pursued, I feel well assured. That such a result is greatly to be desired, I think all must agree, and if accomplished the principal object sought will be gained, although much will still be required to be done to indemnify the government for past depredations.

For the reasons stated herein, I am of the opinion that the passage of said act will be very detrimental to the interests of the government. In this connection permit me to call your attention to the last annual report of the Commissioner of the General Land Office, pp. 16 to 26, inclusive, upon the subject of timber depredations (copy of which is herewith transmitted).

I am, sir, very respectfully, your obedient servant,

C. SCHURZ,
Secretary.

Hon. GEORGE F. EDMUNDS,
Chairman Judiciary Committee, United States Senate.

DEPARTMENT OF JUSTICE,
Washington, February 8, 1878.

SIR: Referring to your letter of the 7th instant, I have the honor to say that I cannot recommend the passage of the bill inclosed therein for a special term of the circuit court to be held at Scranton, Miss.

This bill provides that all process, writs, bonds, and recognizances, which relate to any suit or suits pending, or which may be instituted, in the United States circuit court for the southern district of Mississippi, shall be considered as belonging to such special term.

I think it a matter of grave doubt whether it is in the power of Congress to alter the terms of bonds into which parties have entered. Without, however, discussing this question, I deem it proper to say that I am informed that these suits, which were brought for a term of court in May, cannot be prepared for trial at the proposed special term. They will require careful investigation, and, in many cases, surveys of the lands of the United States, and with the limited force at the command of the Secretary of the Interior it will be impossible for him to furnish the law-officers with the necessary information at the date referred to. I suggest, also, that as these suits have occasioned much feeling in Mississippi among a certain class of citizens who are charged with violation of the rights of the United States, it would not be expedient to appoint a special term to be held at a place other than that where the courts are usually held, and in the part of the State in which this feeling exists.

Very respectfully, your obedient servant,

CHAS. DEVENS,
Attorney-General.

Hon. GEORGE F. EDMUNDS,
Chairman Judiciary Committee, United States Senate.

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'TH CONGRESS, 2d Session. } SENATE. { REPORT No. 91.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1878.—Ordered to be printed.

-. BAILEY, from the Committee on Pensions, submitted the following

REPORT:

e Committee on Pensions, to whom was referred the petition of William McCartney, late a private in Company F, Fifteenth Maine Volunteer Regiment, United States Army, praying that his name be restored to the pension-rolls, beg leave to report:

That it does not appear satisfactorily from the papers and proofs sub-itted to the committee that the disease and disability under which the titioner is laboring was contracted while he was in the military serv-of the United States. The committee, therefore, recommend that e prayer of the petitioner be not granted, and that the committee discharged from the further consideration of the petition.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 92.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 340.]

The Committee on Military Affairs, to whom was referred the bill (S. 340) for the relief of William F. Grove, have had the same under consideration, and submit the following report:

That said Grove was duly commissioned as second lieutenant, Company L, Seventh Missouri Cavalry, and mustered into service as such, to date July, 14, 1863. By order of Major-General Steele, commanding the Department of Arkansas, dated November 9, 1864, the captains and second lieutenants, and a number of enlisted men of Companies A, D, F, K, L, and M of said regiment were placed *en route* to Saint Louis for muster-out, by reason of the expiration of their term of service. His command was mustered out on the 23d of the same month, but Lieutenant Grove does not appear to have presented himself for muster-out until the 18th of February, 1865, when he was honorably discharged to date from November 23, 1864. He claims to have continued to render service to the government until the date of his application for muster-out, but there is no evidence to sustain the claim, and no order of a superior officer placing him on detached service. The records at the War Department do not show that he rendered any service after November 14, 1864.

The committee therefore report the bill back with the recommendation that it be rejected.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 93.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 12, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 401.]

The Committee on Military Affairs, to whom was referred the bill (S. 401) for the relief of Charles H. Mosely, have had the same under consideration, and submit the following report:

A similar bill has once been considered by the committee, and passed the Senate, but was not acted upon in the House. The evidence shows that Mosely was commissioned second lieutenant of the Forty-seventh Kentucky Mounted Infantry, September 9, 1864. He was not mustered because of the failure of one McCracken, the person whose promotion caused the vacancy, to appear for muster. The evidence is conclusive that Lieutenant Mosely entered upon duty immediately upon receipt of his commission, and rendered faithful service. In reference to his claim the Secretary of War says: "There seems but little doubt that he rendered service as second lieutenant from September 9, 1864, to November 30, 1864."

The committee therefore recommend the passage of the bill, with an amendment. Insert at the end of the printed bill the words: "deducting any sum that he may have received as the pay of a non-commissioned officer or private for the same period."

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 94.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1878.—Ordered to be printed.

Mr. SARGENT, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 458.]

The Senate Committee on Naval Affairs, to whom was referred the bill (S. 458) *to authorize and equip an expedition to the Arctic Seas, respectfully report:*

That they have considered the said subject, and submit herewith the report of the Naval Committee of the House of Representatives, to whom was referred an identical bill at this session, and that they concur in the conclusions of said report:

That the object of the bill, "to authorize the President to fit out an expedition to the north pole, and to establish a temporary colony for purposes of exploration," is so interesting and important in its character, that they have, while not neglecting to gravely consider it with reference to its results both to science and commerce, availed themselves of all information accessible, and called in requisition the testimony and experience of men pre-eminent in scientific experience and learning, whose communications are hereto appended and made a part of this report.

The first inquiry pursued was whether, within the purview of the Constitution or otherwise, to fit out an exploration such as the bill proposes was an appropriate, legitimate function of the government, for the exercise of which taxes could be properly levied upon the people; and, if so, whether the nation would get value received for the expenditure incurred and the perils to which its citizens would be exposed.

In reaching a determination, the fact has not been considered that there are numerous precedents in our history precisely covering the present case, to wit, the joint resolution authorizing the acceptance of Mr. Grinnell's vessels, approved May 2, 1850; the resolution respecting the Kane expedition, approved February 8, 1855; the Hall (Polaris) expedition (see legislative, executive, and judicial bill, approved July 12, 1870); the Wilkes exploring expedition, approved May 14, 1836 (see naval appropriation bill of that year).

The action of the government in the foregoing instances indicates the views of previous Congresses respecting such a measure, as all such expeditions have been conducted under the auspices of the national government. Nor has any importance been attached to the action of other governments, who not only heretofore have inaugurated such enterprises, but are contemplating the inauguration of others on a magnificent scale.

We have ascertained, to our satisfaction, that the results yielded by prior explorations in the Polar Seas have incalculably benefited the whole world; that the knowledge acquired by experiment and discovery in that region can be obtained in no other way and in no other section of the globe; that such knowledge is an important factor in the regulation of commerce, which is absolutely dependent, so far as decreasing the perils of the deep and enlarging the boundaries of navigation are concerned, upon the knowledge of physical laws.

The Constitution gives Congress power, in section 8 of article 1—

"To regulate commerce with foreign nations."

And also in the same section and article—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers."

So the question as to the power of the government is without the domain of doubt or discussion.

The government has the Constitutional power. Is it proper to exercise it?

Whatever benefits are harvested favor no special interest or class. The added knowledge obtained is the property of mankind.

Give a subsidy, you enrich a corporation by extorting from the body-politic. Impose a duty for the purpose of protecting a particular industry, you enrich a few while you impoverish the many. Explore the remote corners of the earth, you awaken inquiry, add to the stock of information, and contribute essentially to man's mastery over the elements.

None among those who believe that money is well expended to increase knowledge, to improve the chances of life, to enlarge the commerce of our nation, and who appreciate the notable results already achieved in this special field of adventure and study, will belittle or sneer at the enterprise proposed in this bill. Some declare, by way of deprecation, that failure and disaster have been the reward of the dauntless explorer. In a certain measure, true. But the ends aimed at are worthy of sacrifice. Hall and Franklin died just as gloriously, just as serviceably, just as heroically, as Warren at Bunker Hill or Sedgwick at the Wilderness.

Valuable experience and information have been obtained within past years which are now at the service of any new explorer, and new plans based on such experience and information have been examined by your committee, which point out the causes that have hitherto contributed to disaster and partial failure.

This plan is known as "polar colonization," and has received a hearty indorsement from such distinguished experts, scientists, students, and explorers as Prof. Joseph Henry, president of the National Academy of Sciences; Professor Loomis, of Yale College; President Potter, of Union College; Admiral Porter; Rear-Admiral Davis, superintendent of the National Observatory; Hon. Charles P. Daly, president of the American Geographical Society; Dr. Isaac I. Hayes, the explorer, and others, while it is heartily approved also by the honorable Secretary of the Navy; and your committee are inclined to commend it to the favor of Congress, more especially if its execution be intrusted, as the bill provides, to the President, under the direction of the National Academy of Sciences.

The entrance to Robeson's Channel, 81° N., can be readily reached by steam-vessels. Surveys by the Polaris in 1871, and the Alert and Discovery in 1875, have been made to a point within four hundred miles of the pole.

As the Polaris was reaching the northern extremity of Robeson's Channel, there appeared what was seemingly, and what those best qualified to judge believed to be, an open polar sea. This sea could have been reached had the vessel arrived at such point even an hour before, and the dream of explorers would have been a reality; but the adventurous party were forced back, and wintered but a short distance from the unexplored waters.

Captain Nares, in 1875–'76, encountered above this channel an unbroken field of ice, too solid to penetrate with vessels, too uneven to be traversed by sledge-parties.

So, it will be observed, seasons there are no less variable than our own. Sometimes the mighty fields of ice are broken up and carried away by favoring tides; sometimes the ice presents an impassable barrier.

To succeed under such plans as have formerly been followed would be simply because chance supported them. To make success assured, the men and the vessels must be nigh the channel, ready for the fortunate hour, and prepared to take prompt advantage. To obviate the difficulty and meet the exigency, polar colonization is declared the appropriate mode, and is therefore urged by the distinguished gentlemen we have named.

This plan requires that the colonization party should number at least fifty hardy, resolute men, enlisted in the United States for such service, provided with supplies and provisions for at least three years; that a strong, substantial building should be carried on shipboard; that the principal depot should be in Lady Franklin Bay, between 81° and 82°, or, if possible, as high as Cape Union, between latitude 82° and 83°; the United States vessels to be used only for transporting men and supplies to the location of the colony, the vessel then to return to the United States, and afterward to make annual visits with fresh supplies, and to keep the colony in communication with the outer world; military discipline to be enforced; three commissioned officers and two surgeons to be selected, with a view to their peculiar fitness; an astronomer and two or more naturalists to be selected by the National Academy of Sciences; and that one or more members of the regular force should be competent to make meteorological observations, and to communicate by telegraph and signals when necessary.

Such are the main features of the plan, which also provides that all due precaution shall be had to afford safeguards against scurvy, against the ill-effects of cold, and also to protect the colony from hunger.

In the vicinity of the point where the colony is to locate coal abounds, game is plentiful, Esquimaux men can be had to re-enforce and guide the expeditionary corps, and Esquimaux dogs to draw the sledges. The men become acclimated after a few years

and Captain Hall, who was eight years among the Esquimaux, testifies that each year ended found him better fitted to endure the severity of the Arctic Circle.

Other nations are at this moment hurrying forward exploring expeditions to be prosecuted under this plan.

Noble men in our country are eager to enlist in the enterprise.

Intelligent and liberal capitalists are ready to give of their means to forward it.

There has never before been an opportunity afforded so promising in results as the one which now presents itself.

To make such explorations entirely successful, it is essential that simultaneous observations be had at different points within the Arctic Circle, and for continuous periods of time.

England, during the present year, will fit out two vessels, under the explorer Nares, on a polar expedition via the east coast of Greenland.

Sweden, in 1878, under the auspices of Professor Nordenskjöld, will explore the polar regions via Norway across to by way of Behring's Strait.

Holland has determined upon another.

Germany, under the direction of the Arctic Exploration Society, has an Obi expedition, commanded by Captain Wiggins, now on duty.

Russia, during the coming spring, will push forward an ethnological expedition, under the Helsingsfors professor, to the Vogels and Ostyacs of the Obi and Irtysh.

And eminent explorers as well as scientific societies of all civilized countries are busying themselves in an endeavor to establish stations at different points in the arctic regions with a view of systematic synchronous observations, which are absolutely essential, with a view to progress in scientific discoveries.

There is scarcely a natural science but would be enlarged and utilized by proper observations in the Polar Seas. Natural forces there are subject to extreme conditions, and, consequently, produce phenomena not seen elsewhere, and which serve to unveil the character of the forces themselves.

Terrestrial magnetism, hitherto deemed a science of comparative unimportance, is now deemed the most consequential branch of physics; it is controlled by cosmical, atmospherical, and terrestrial action, and in the economy of nature exercises a reciprocal control.

Reliable observations show the existence of galvanic currents and the relationship between magnetic disturbances and northern lights and earthquakes, while it is well known that magnetism is in inseparable connection with galvanism and electricity. In the extreme north, the needle is rarely stationary. There, too, the wrathful storms rage as nowhere else. Such are the reasons why, if this intensely interesting science is to grow, observations must be had in that remote archipelago of ice.

Scarcely less interesting, and no less important to the world, than terrestrial magnetism is a knowledge of the atmosphere and its phenomena, especially their relation to heat and moisture, which is comprehended in meteorology. In the far north, and there only, can be ascertained the effect of that immense aggregation of ice; how heat is engendered and distributed; how dry and humid currents are created and put in motion to commingle and combat each other; to what extent climate is affected in this wise; and how hurricanes, which visit mankind with wrathful destruction, originate. Is it necessary to exhibit, by any process of reasoning, the utility of such knowledge, the advantages which would accumulate to science and to commerce?

The flattening of the earth at the pole, and the extraordinary refractions there, would yield such opportunities for investigation as would enable us to measure the earth with greater accuracy, to correct lines of latitude and longitude, and also greatly facilitate the study of astronomy.

Natural history and botany would be vastly enriched, as is attested by the existence of rare flora and fauna.

Geology has found there the groundwork of new theories and the explanation of many old ones. In Siberia are found animals of anterior worlds, while in Nova Zembla, Spitzbergen, and Greenland are fossils so abundant and rare that the paleontologist exults in his enlarged sphere.

Wonderful already are the discoveries made in each field of inquiry noted; but we are yet in the vestibule. The region of the unknowable is just beyond; we are invited thither. We know enough to realize the wealth which awaits us.

Hitherto observations have been limited and imperfect, the most important of them wholly neglected; accurate data as to all of the sciences named are wanting.

Geographic discovery has hitherto been the objective point. While this is praiseworthy, while it adds the most important chapter to the book of knowledge, it should not be the primary object to which all others are subordinated.

An absolute change of operations must be had. This change will be effected by the passage of the bill H. R. 447. It meets the exact need. It provides for a long stay, which will give ample opportunity for observations and the conduct of scientific inquiry under the most favoring conditions. It provides that an intelligent system shall be pursued, under the direction of the National Academy of Sciences.

Ordinarily, the expeditions have been so conducted as to actually preclude scientific discovery—all appliances left at home, and almost continuous locomotion.

Other nations are adopting the same methods, and while American scientists are taking observations in the vicinity of Robeson's Strait, like observations will be taken in Behring's Strait, on the east coast of Greenland, in the vicinity of Spitzbergen, and at other points, simultaneously covering the whole field—belting the whole arctic world—for several consecutive years.

Other nations are already there or getting in readiness to be there. The way through Smith's Sound, where De Haven, Kane, Hall, and Hayes, by their heroic researches, have given immortal glory to America, seems to be the fittest field for Americans in this race for conquest and discovery. It is familiar, and other fields are already chosen by other governments.

Dismiss the unsettled, vexed question, which is the most direct and practicable route to the pole. Conditions vary. One year one is preferable—another, another; all are equally rich in scientific treasures, and will yield to searchers after knowledge an equal harvest, though the weight of testimony, even for geographical discovery, is in favor of the American route, as the exhibits appended indicate.

The plan which this bill contemplates happily blends geographical and scientific discovery; it will facilitate both, and result in both.

The importance of the fitting-out of this expedition at this particular time, with a view of co-operation with others, should not be out of mind, for meteorology depends upon comparison resulting from simultaneous observations. The laws of storms and the theories of winds depend upon such comparison. In no other mode can conclusive results be attained.

If we make any pretense as friends of science, we must pursue the only methods whereby development can be achieved. Those methods have been pointed out. But supposing we should disregard the impulse of honor and glory; supposing we were controlled alone by the instinct of a supreme selfishness, which considers nothing but the questions, will it pay? will it help commerce? will it economize human life and property? there would still be sufficient reasons left to justify this undertaking.

We can support this statement sufficiently by accepting the testimony of Prof. Elias Loomis, of Yale College, who says, in his admirable letter hereto appended:

"The vast extension of the commerce of the world in recent times, and its increased security, are due in no small degree to more accurate information respecting the physics of the globe, including such subjects as the mean direction and force of the prevalent winds; the laws of storms; the use of the barometer in giving warning of approaching violent winds; the surest mode of escaping the violence of a storm when overtaken by a gale; the most advantageous route from one part to another; the direction and velocity of the current in every ocean; the variation of the magnetic needle in all latitudes, and its changes from year to year; together with many other problems; and most of these investigations have been greatly facilitated by observations which have been made within the arctic regions. I do not regard it as any exaggeration to claim that the benefits which have resulted, both directly and indirectly, to the commerce of the world, in consequence of polar expeditions, are more than equal to all the money which has been expended on these enterprises."

Last year a whaling-fleet of twelve vessels was wrecked in the Arctic Sea, and property to the amount of half a million of dollars destroyed, all because of a lack of proper knowledge of climatic and tidal influences, which can alone be obtained by observations made in the manner provided for in this bill.

Business-men have a keen appreciation of the importance of these explorations to commerce. They have always been anxious to aid them by liberal contributions. Some of them have been prosecuted solely by private means. The names of many merchants have been given to capes and bays and promontories and straits, as vouchers of the fame they have so justly earned by intelligent devotion to science.

Boards of trade and chambers of commerce are now, through memorials, already before this committee, invoking us to pass this bill, and renew the honorable work.

The cost is slight. The ends aimed at will provoke no intelligent opposition. The methods proposed are not experimental, but the product of experience. They have the sanction and even the warmest commendation of all scientific men of all nations. The supervision of the National Academy of Sciences will insure wise provisions and safeguards against accident, disease, or failure. Dr. Hayes, the eminent and successful arctic explorer, coincides fully with the views herein expressed, as also do others familiar by actual experience. Their letters are so instructive that we make them a part of this report.

The honor of the American name is involved. Will Congress suppress this zealous spirit of inquiry and adventure, or give it scope by the passage of this bill, and a meager appropriation of $50,000? To us it appears there should be but one answer; and, therefore, we report back the bill with a recommendation that it do pass.

EXHIBIT A.

Letter of the Secretary of the Navy.

NAVY DEPARTMENT,
Washington, February 2, 1877.

SIR: In connection with House bill No. 4339 [of the Forty-fourth Congress, second session], now in your hands, and which provides for another arctic expedition, I have to express a hearty interest therein and an earnest hope for the success of the plan. The successful sledge-journey made by Captain Hall before his death, the concurrent testimony as to a polar sea open in some seasons, and all the details of evidence from the Polaris crew, seem to show that success is possible. Qualified officers, I doubt not, will gladly volunteer for such duties as may be assigned the Navy in connection with such an expedition. I am convinced, however, that no expedition should be sent to this dangerous and distant region except under the sanction of the strictest military discipline.

I have the honor to be, &c.,

GEO. M. ROBESON,
Secretary of the Navy.

Hon. BENJAMIN A. WILLIS,
Of the Committee on Naval Affairs, House of Representatives.

EXHIBIT B.

Letter of President Joseph Henry, LL. D.

SMITHSONIAN INSTITUTION,
Washington, January 31, 1877.

SIR: Your letter of the 30th instant, asking my opinion as to the plan of Captain Howgate for explorations in the arctic regions, and its utility in regard to scientific and commercial results, has been received, and I have the honor to give you the following reply:

From my connection with the Smithsonian Institution and the National Academy of Sciences, I am of course interested in every proposition which has for its object the extension of scientific knowledge, and therefore I am predisposed to advocate any national plan for exploration and continued observations within the arctic circle.

Much labor has been expended on this subject, especially with a view to reach the pole; yet many problems connected with physical geography and science in general remain unsolved.

1. With regard to a better determination of the figure of the earth, pendulum-experiments are required in the region in question.

2. The magnetism of the earth requires for its better elucidation a larger number and more continued observations than have yet been made.

3. To complete our knowledge of the tides of the ocean, a series of observations should be made at least for an entire year.

4. For completing our knowledge of the winds of the globe, the results of a larger series of observations than those we now possess are necessary; and also additional observations on temperature.

5. The whole field of natural history could be enriched by collections in the line of botany, mineralogy, geology, &c., and facts of interest obtained with regard to the influence of extreme cold on animal and vegetable life.

All of the above-mentioned branches of science are indirectly connected with the well-being of man, and tend not only to enlarge his sphere of mental pleasure, but to promote the application of science to the arts of life.

As to the special plan of Captain Howgate, that of establishing a colony of explorers and observers, to be continued for several years, I think favorably.

The observations which have previously been made in the arctic regions have usually been of a fragmentary character, and not sufficient in any one case to establish the changes of the observed phenomena during an entire year, whereas to obtain even an approximation to the general law of changes, a number of years are required.

It may be proper to state, in behalf of the National Academy of Sciences, that should Congress make the necessary appropriation for this enterprise, the academy will cheerfully give a series of directions as to the details of the investigations to be made, and the best methods to be employed.

I have the honor to be, very respectfully, your obedient servant,

JOSEPH HENRY,
Secretary Smithsonian Institution, President National Academy of Sciences.

Hon. BENJ. A. WILLIS,
House of Representatives.

EXHIBIT C.

Letter of Admiral David D. Porter.

WASHINGTON, D. C., *January* 31, 1877.

SIR: I beg leave to acknowledge the receipt of your note of January 30, with accompanying pamphlet, in relation to polar colonization and exploration.

I have examined the pamphlet with the care that the importance of the subject demands.

I have always been an advocate for arctic exploration, in whatever form it might be undertaken, and I think there would be no greater difficulty in carrying out an enterprise in the manner you propose than there would be in a ship. In fact, if an expedition was properly fitted out in the first instance, and landed in good condition at the point proposed as headquarters, it would be less hampered if the ship should return home until wanted with supplies.

In my opinion, there is an open sea for two hundred miles toward the pole; that there are high mountains from which are precipitated the icebergs which lately blocked up Robeson's Channel; and that had Markham's farthest point been exceeded by sixty miles, the pack would have been passed and open water reached again.

Every few years we must expect just such a pack as Captain Nares encountered, which will probably last for a year or two, and will then break up.

If, at the moment of breaking up, men and boats are in readiness to take advantage of the opportunity, a great advance could be made toward the pole.

There are no greater hardships to be encountered as high as 83° than have heretofore been surmounted by the intrepid explorers of the arctic regions, and when we reflect that a party from the Polaris drifted 1,800 miles on a cake of ice, and that an infant and its mother were all that time exposed to the inclemencies of the arctic regions, we ought to have no doubts about a company of strong, active men, well provided with everything necessary to make life endurable in that desolate region.

Certainly no weather can be more severe than that encountered by the officers and men of the Alert and Discovery, who experienced a temperature of 100° below the freezing-point. It would seem that there are actually no drawbacks in the way of weather which have not been encountered before, and we are able to make every preparation to meet the difficulties in our way.

It becomes now simply a question of hardy men with brave hearts and cheerful dispositions, provided with an ample stock of the best provisions, and with means of amusement to make the winter night pass as speedily as possible. The greatest difficulty will be to keep up the spirits of the men, and this matter should be very seriously considered in selecting the individuals for an expedition of this kind. Nostalgia is the great enemy you would have to fear; and if every man should be obliged to understand some mechanical pursuit, which he could follow when the party was laid up for the winter, it would go far toward bringing about a successful issue.

In the event of such an expedition as you propose, I see a fine opportunity of utilizing the electric telegraph. Wires could be laid along on the ground or ice without much danger of their being carried off by bears or foxes.

I am no believer in a northwest passage for any practical purpose, but I do believe that there are a number of scientific subjects that can be better demonstrated at the north pole than anywhere else, and I think we owe it to ourselves to know all about a matter which has hitherto remained in comparative obscurity.

In establishing your colony I would particularly suggest that a number of houses be erected and somewhat separated. That of itself would tend to create a diversion by causing the men to visit each other frequently. It would be well, however, to have one central depot under the eye of the commanding officer, where the command could be assembled as occasion might require. These houses could be made in sections and put up at the end of the voyage. They should be lined with thick felt, and would be very comfortable.

In connection with the proposed expedition, I recommend a combination of sledge and boat somewhat after the plan of the gutta-percha or kerite-rubber life-raft used in the Navy. They could be made very light for carrying packs, and when forced to take the water could be navigated with safety. If such appliances had been more used in arctic explorations many lives might have been saved.

In conclusion, permit me to say that I can see no objection whatever to your plan, and hope you may meet with the success your energy deserves.

Very respectfully, yours,

DAVID D. PORTER, *Admiral*,

Capt. H. W. HOWGATE, U. S. A.
Signal-Office, Washington. D. C.

EXHIBIT D.

Letter of Rear-Admiral Charles H. Davis.

NAVAL OBSERVATORY,
Washington, D. C., January 31, 1877.

SIR: I have the honor to acknowledge the receipt of your communication of the 30th instant, and to say, in reply, that the plan for arctic exploration proposed by Captain Howgate, United States Signal Corps, meets my entire concurrence and approval.

The general principles laid down by Captain Howgate for the conduct of future arctic expeditions seem to be universally adopted. These principles originated in the recent expedition under Captain Hall.

Very respectfully, your obedient servant,

C. H. DAVIS,
Rear-Admiral, Superintendent.

Hon. BENJ. A. WILLIS,
Chairman Subcommittee on Naval Affairs, House of Representatives.

EXHIBIT E.

Letter of Dr. Isaac I. Hayes, Arctic Rxplorer.

STATE OF NEW YORK, ASSEMBLY CHAMBER,
Albany, February 12, 1877.

MY DEAR SIR: I am glad to see you are getting on so well with your proposed expedition, and that the matter is in such good hands. You can, of course, always rely upon me for any assistance in my power. I think your scheme feasible, and trust sincerely that you will obtain the necessary appropriation. Your general plan is a good one, and how fully I am in accord with it you may judge from a paper read by me before the Geographical Society in New York, November 12, 1868, from which I extract the following:

"My views in this respect are in no way changed, but rather they are confirmed by events. I give this simple enumeration of its advantages: 1st. Land as a base of operation; 2d. The opportunity to colonize a party of hunters and natives, as a permanent support. A glance at the map will show you how important is the first of these elements; the second requires a further explanation. The colony was indeed the key to the plan which I had proposed for 1862. Had I been able to return that year, I would have started with two vessels, one a small steamer, the other a sailing-vessel as a store-ship. Pushing through the middle ice of Baffin Bay I would have steered for Port Foulke, my old winter-harbor, at the mouth of Smith Sound. Here I would have secured the auxiliary vessel, and, remaining only a sufficient length of time to see the natives gathered together and the wheels of my little colony set in motion, I would have sought the west coast of Smith Sound with the steamer, and through the land-leads have worked my way to the polar water. Failing to accomplish this the first season, I would have secured a harbor for the winter, and pushed on the work as opportunity offered. Failing altogether (in the event of finding the ice too closely impacted at the head of Smith Sound to admit of a passage), I would still have secured my object, for, with a provision depot now within six hundred miles of the pole, with the colony at my back, and in the winter readily accessible, with dogs breeding there, and with furs and provisions accumulating, I would have overcome the obstacles which embarrassed me in 1860 and 1861, and which had embarrassed Dr. Kane before me. Once in this favorable situation I would have brought up my available strength from the colony, and, in the early spring, put out depots of provisions along the line of Grinnel Land, and following them up with a boat mounted on runners, I would then have sought the open water and the pole. Such was my plan seven years ago. It is my plan to-day. I believe it reasonable, and experience convinces me that it is practicable. I even believe that the chances are greatly in favor of the success of the first part of the scheme; that is to say, that the ice belt can be penetrated with the steamer, the open sea navigated, and Behring Strait and the Pacific Ocean reached."

If you care to follow up the subject so far as my views are concerned, you will find them fully expressed in the Journal of the Geographical Society for 1869, vol. 2, part 2. I think it will be evident to you that the great feature of my plan was that the colony at Port Foulke would be always accessible from home every summer, with as much certainty as any port in the world. Besides, it is one of the most prolific centers of animal life in all the region. Reindeer are numerous in its vicinity; my party capturing upward of two hundred during our ten months' stay in our winter quarters.

During the summer the air was teeming with bird-life, and the sea was alive with walrus and seal. Bears and foxes were also numerous. Your extensive reading upon the subject of arctic exploration will have shown you that men will not long endure the arctic climate. Even Sir Edward Parry, the greatest of all arctic navigators, found himself obliged to return home after two winters, mainly because of the disturbed *morale* of his men. The long-continued darkness of the winter, the entire deprivation of society, and the universal cheerlessness have a singularly depressing influence upon the mind, and you will therefore at once perceive the value of establishing a station where annual intercourse can be had with home, whence the sick and weary can be sent away, and new recruits brought into the field.

With Port Foulke as a principal station, and other points subordinate to it established on the coast of Grinnell Land, up to Lady Franklin Bay and beyond, I think success would be assured in the course of three or four years. In any case, a vast amount of scientific information would be obtained at little cost and little risk to life.

Wishing you every success in your praiseworthy endeavor, believe me, very truly, yours,

I. I. HAYES.

Capt. H. W. HOWGATE,
Washington, D. C.

EXHIBIT F.

POLAR COLONIZATION.

THE ARGUMENTS BROUGHT BY PROFESSOR LOOMIS TO THE SUPPORT OF CAPTAIN HOWGATE'S SCHEME.

The following letter has been written by Professor Loomis, of Yale College, the distinguished meteorologist, to Captain Howgate, in support of the latter's scheme of arctic colonization. It will be found of interest as illustrating the scientific benefits to be derived from a polar expedition based upon this plan:

"I have received your letter of January 7, together with a copy of a bill to be presented to Congress asking for an appropriation to defray the expense of another expedition toward the north pole. I have for many years taken a deep interest in polar expeditions, and see no reason for abandoning further effort because former expeditions have not accomplished all that was expected. If we review the entire history of polar expeditions since Captain Parry's first voyage, more than half a century ago, we find that every expedition has proved in some sense a failure; that is, has accomplished less than was anticipated; and some may therefore conclude that all the labor which has been expended on this polar problem has been wasted. I take a very different view of the subject, and consider that the results of the many polar expeditions, from the first voyage of Captain Parry to the present time, are worth far more than all the money and labor which have been expended on them. In order to estimate the value of the results of these expeditions, we should consider what would have been the state of our knowledge of the physics of the globe if no such expeditions had been undertaken. There is scarcely a problem relating to the physics of the globe which can be fully understood without a knowledge of the phenomena within the polar regions. Whatever phenomenon we may wish to investigate, it is of special importance to determine its maximum and minimum values, and in nearly all questions of terrestrial physics one or other of these values is found in the neighborhood of the pole. If, for example, we wish to determine the distribution of temperature upon the surface of the globe, it is specially important to determine the extremes of temperature, one of which is to be found near the equator and the other near the poles. If we wish to investigate the system of circulation of the winds, our investigation would be sadly deficient without a knowledge of the phenomena in the polar regions. If we wish to study the fluctuations in the pressure of the atmosphere, whether periodical or accidental, we cannot be sure that we understand the phenomena in the middle latitudes unless we know what takes place in the polar regions. If we wish to investigate the currents of the ocean, we find indications of currents coming from the polar regions, and it is important to be able to trace these currents to their source. If we wish to investigate the laws of the tides, we need observations from every ocean; and observations in the arctic regions have a special value, on account of their distance from the place where the daily tidal wave takes its origin. If we wish to study the phenomena of atmospheric electricity and of auroral exhibitions, no part of the world is more important than the polar regions. If we wish to study the phenomena of terrestrial magnetism, observations in the polar regions have a special value, since it is here the dipping needle assumes a vertical position and the intensity of the earth's magnetism is the greatest. If we wish to determine the dimensions and figures of the

earth, we require to know the length of a degree of latitude where it is greatest and also where it is least. If we wish to determine how the force of gravity varies in different parts of the world, we require observations of the length of the seconds pendulum both where it is greatest and where it is least.

"In short, there is no problem connected with the physics of the globe which does not demand observations from the polar regions, and generally the poles and the equator are more important as stations of observation than any other portion of the earth's surface. If the information which has been acquired upon the various subjects in the numerous polar expeditions of the last half century were annihilated, it would leave an immense chasm, which would greatly impair the value of the researches which have been made in other parts of the world. The subjects to which I have here referred are scientific rather than commercial; but many of them have an important bearing upon questions which affect the commerce of the globe. In the attempts which are now being made by the joint efforts of the principal nations of the globe to determine the laws of the storms, if we could have daily observations from a group of stations within the arctic circles, it is believed that they would prove of the highest value in enabling us to explain the phenomena of the middle latitudes. Every winter upon the eastern side of the Rocky Mountains we find an intensely cold wave moving down from the northward and spreading over a large portion of the United States. How can we fully understand the cause of the great changes of temperature which so frequently occur during the winter months unless we know where this cold air comes from; and how can this be determined without fixed stations of observation extending northward even to the polar region? The vast extension of the commerce of the world in recent times and its increased security are due in no small degree to more accurate information respecting the physics of the globe, including such subjects as the mean direction and force of the prevalent winds, the laws of storms, the use of the barometer in giving warning of approaching violent winds, the surest mode of escaping the violence of a storm when overtaken by a gale, the most advantageous route from one part to another, the direction and velocity of the currents in every ocean, the variation of the magic needle in all latitudes and its change from year to year, together with many other problems; and most of these investigations have been greatly facilitated by observations which have been made within the arctic regions. I do not regard it as any exaggeration to claim that the benefits which have resulted both directly and indirectly to the commerce of the world in consequence of polar expeditions are more than equal to all the money which has been expended on these enterprises. Is any additional advantage to the commerce of the world to be anticipated from further explorations in the polar regions? Undoubtedly. Precisely what these advantages may prove to be we cannot certainly pronounce beforehand, but upon most of the questions to which I have already alluded more minute information is needed. The demands of science are by no means satisfied, and we may confidently anticipate that any advance in our scientific knowledge respecting questions connected with the physics of the globe will impart increased security to commerce. If a steamer starting from New York and traveling northward could pass directly over the north pole through Behring Strait into the Pacific Ocean, it would be a triumph of geographical science equal to the first discovery of America. Whether such a result will ever be witnessed we cannot safely predict, but past explorations have not shown that such an achievement is impossible. I hope we shall not rest contented while so much that is clearly feasible remains to be done and until the northern boundary of Greenland has been traced."

EXHIBIT G.

Letter of Capt. George E. Tyson, of the Polaris.

WASHINGTON, D. C.

DEAR SIR: I was very agreeably surprised to see your letter, published some time ago in the New York papers, containing a proposition to Congress to appropriate money, ship, and the necessary equipment for another expedition to endeavor to reach the north pole, and I heartily concur with you in the plan therein suggested as the most practicable yet devised. It is a matter of no little surprise to me that there has not been more of an outpouring of American enthusiasm toward the achievement of the success of this great enterprise, and that, too, when we consider the magnitude and great importance of the work. It is unquestionably a noble effort, and the scientific societies of the country would do well to unite in memoralizing Congress relative thereto. Now is time, and if this government fails this year, through a spirit of parsimonious economy, to appropriate the means necessary to the furtherance of this project, England or Germany will, in all probability, secure the honor of this great achievement.

GEORGE E. TYSON.

Capt. H. W. HOWGATE.

EXHIBIT H.

Letter of Capt. H. C. Chester, of the Polaris Expedition.

To the Editor of the New York Times:

Having had some experience in arctic exploration, and being familiar with its dangers and difficulties, my attention has been called to the letter of Capt. Henry W. Howgate, published in the Times of the 26th of December. I beg to express my thorough approval of the plan submitted by Captain Howgate, as I believe it to be the only way by means of which the pole can be reached. All future explorations tending to solve the mysteries of this extreme northern region will have to be prosecuted by means of gradual advances made from some main depot. Exactly the same idea was entertained by Captain Hall. When we were at the farthest point of land, about 82° 8,′ in October, 1871, we looked at the so-called impenetrable sea of ice. Then it was moving ice and water. From its smoothness we felt very sure that when the colder weather set in we would have but little trouble traversing the channel in the spring. We should have endeavored to have crossed Robeson's Straits, and would have tried to gain a point of land visible northwest of us, which land we called Cape Union, and which we calculated was some sixty miles distant. If Captain Howgate's suggestions of establishing a party at or about Robeson's Channel, or to the west of it, is ever carried out, I think these people would by progressive stages reach in time the much-desired goal. As to the obstructions mentioned by Captain Nares, all I can state is that such impediments did not exist in my time. The reasons why I suppose they cannot be so formidable are founded in the following observations: When in May and June of 1872 we lay with the boats and crew of the Polaris twenty-five miles from the ship, on the floe-ice, waiting for an opening in Robeson's Channel, in order to cross it, during four weeks' time the straits were blocked with ice, but this ice was all moving south. We found no opening for a month, and were unable to use our boats. This ice went southerly at the uniform rate of about one and a half miles an hour, and was never checked, save when the winds blew south or southwest. If, then, the strait was filled with ice moving southerly, such an impassable barrier of ice as Captain Nares speaks of must have been found at a point very much farther north than the land designated by us as being Cape Union. I do not think there could have been much of an error as to the distance we supposed ourselves to be from this Cape Union, and the north pole could not have been more than four hundred and twenty miles north of it.

When Captain Hall and the writer undertook the fourteen-day sledge-journey, when we worked our way along in the twilight, Captain Hall said to me, "I am satisfied that the only way to reach the pole will be for us to carry our provisions across Robeson's Channel, to form a depot on the other side, and from thence take out parties. It is work we must lay out for ourselves this spring." I believe had Captain Hall lived he would have carried forward the work just as Captain Howgate proposes; that is, by establishing depots and making progressive stages. Captain Hall's untimely death, on the 8th of November, 1871, prevented his accomplishing this design. I think, in order to prosecute the plan proposed by Captain Howgate, there would be no difficulty in procuring thirty men accustomed to arctic travel, who would ultimately achieve success. As to fresh-blood food, I am positive that, at least in the neighborhood of Robeson's Channel, the musk-ox can be found from May to October. I shot the first musk-ox on the Polaris Plain in 81° 40′ during the latter part of September. With the crew of the Polaris in the latitude of 82° we killed twenty-four musk-oxen. I do not believe there would be any trouble in provisioning thirty men yearly with this fresh food. I therefore most freely indorse Captain Howgate's views, and say with him, "Let an expedition be organized to start in the spring of 1877, and I firmly believe that in 1880 the geography of the polar circle would be definitely settled, and that without loss of life."

H. C. CHESTER.

PHILADELPHIA, *Saturday, December* 30, 1876.

EXHIBIT I.

Letter of Mr. Robert Seyboth, a member of Dr. Hayes's Expedition.

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I have not the slightest doubt, if a sufficient number of energetic men, well selected and officered, can acclimate themselves to the terrible severity of arctic winters, the greatest difficulty in the way of the discovery of the pole will have been overcome, for

such a party and depot could be used as a base of operation from which to push forward, in favorable junctures of temperature and their accompanying condition, successive posts, each one to be permanently held until the next was established, and until some favoring season made the open polar sea a navigable reality.

The great question to be answered in considering your scheme is the possibility of sustaining human life at such high latitudes for a sufficient length of time. I do not hesitate to answer this question in the affirmative. My own experience during a stay of nearly two years within the arctic circle, and with an expedition that possessed none of the comforts and safeguards usually provided for arctic explorers, warrants me to believe that a systematically-conducted plan of colonization, such as you propose, would meet no insurmountable difficulties in the effort to sustain life and sufficient robustness to carry out the work of exploration. Scurvy, the great enemy of former explorers, can be entirely avoided by adopting the proper hygienic precautions, as has been fully proved by the late Captain Hall, who spent several years in succession in company of the Esquimaux, in perfect health and without assistance from the outside world.

It is a noteworthy fact that A merican whalers, who frequently remain two or more successive winters in the arctic regions, do not suffer from scurvy while wintering, but are almost invariably afflicted with the fell disease during the homeward voyage. Why? Because they do not hesitate to eat plentifully of seal, walrus, bear, and even whale meat, all of which is readily obtainable in the hgihest latitudes. To this diet I myself found no difficulty in becoming accustomed, and, consequently, did not suffer from scurvy until after the enforced resumption of "salt junk" on the homeward stretch. Granting, then, the possibility of colonization, I fully believe that the adoption of your scheme would strike at the root of former failures in arctic explorations, for it substitutes the steady conquest, step by step, in place of the spasmodic and unsustained efforts hitherto made at the sacrifice of untold treasure and the loss of great and noble lives.

Very respectfully,

ROBERT SEYBOTH.

Capt. H. W. HOWGATE.

EXHIBIT K.

Letter from the Hon. Charles P. Daly, LL. D., President of the American Geographical Society.

AMERICAN GEOGRAPHICAL SOCIETY,
No. 11 WEST TWENTY-NINTH STREET, NEW YORK CITY,
January 18, 1877.

MY DEAR SIR: Before your letter was received I inserted in my annual address a notice of your plan and of the bill before Congress.

As you will find by my address, your mode of exploration is the one that I have uniformly approved and recommended for many years. I expressed this opinion in my address of 1869; and in the first of my addresses, which have been printed (1870), I declared my conviction that a passage to the pole by water would, in all probability, not be found, and that the true method of exploration was by sledge operations upon land from the farthest point that could be safely reached by a vessel.

* * * * * * *

You will see from this that I have long been impressed with your general plan, and the only criticism that I have to offer is that I think the station should not be limited to some point north of 81°; for though a vessel may winter securely in Discovery Bay, and although there is a fine seam of bituminous coal three miles from where the Discovery wintered, yet the region, as shown by the experience of the English expedition and by the abandonment of the Esquimaux settlements just below it, is very barren of animal life either upon the land or upon the water, while at Port Foulke it is otherwise, and a temporary colony could be maintained there without any difficulty. For this reason I think it would have been better to have said north of 78°.

It will afford me great pleasure to do all that I can to forward your views, and anything that the society can do I am sure will be done.

The suggestion I have made as to the limitation in the bill as to location of colony is entirely for your consideration, and will in no way affect our hearty support of the measure.

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Very truly, yours,

CHAS. P. DALY.

Capt. H. W. HOWGATE.

EXHIBIT L.

Letter from Rev. Eliphalet Nott Potter, President of Union College.

UNION COLLEGE, SCHENECTADY, N. Y.,
February 15, 1877.

MY DEAR MR. WILLIS: * * * I have not noticed whether the bill for arctic exploration has yet been reported; if not, as I understand it to be in your hands, permit me to say, for myself and the faculty, that we regard the measure with great solicitude, and hope much from its becoming a law. In the naturally intense interest which you feel in the Presidential national question, don't fail to remember and to press this measure of importance to science and the welfare of the world.

It will be a proud thing for the practical genius of America to carry out the only feasible approach to the solution of a question costing only a useless outlay of life and treasure so long as the end is pursued by the old method.

In haste, and sincerely, yours,

E. N. POTTER.

The Committee further submits the following letter from Capt. H. W. Howgate, containing matters of interest in connection with the same subject:

WASHINGTON, D. C., *February* 12, 1878.

SIR: As a matter of interest in connection with the subject of arctic exploration, I have the honor to invite your attention to the following extracts from the proceedings of the Royal Geographical Society of Great Britain, at its meeting of January 23, 1865, when a paper on the exploration of the North Polar region was read by Capt. (now Admiral) Sherard Osborne, R. N. I invite your especial attention to these extracts as bearing directly upon the proposed useful employment in time of peace of a portion of the Navy for purposes of scientific and geographical exploration, which constitutes the essential feature of the plan embodied in the bill to authorize an expedition to the Arctic Seas, now pending in the Naval Committee, and in advocacy of which I had the honor of recently appearing before you.

What is here said about the British navy applies with equal force to our own at the present day. Our ships are resting idly, either in our ship-yards at home or rotting at anchor in some pleasant harbor abroad, and our officers and seamen are becoming enervated from the want of a proper stimulus to their ambition. The small amount asked for in this bill could, in my opinion, be wisely spared from the regular appropriation for the support of the Navy and come back to the country a thousand fold in the improved morale of the gallant officers and men who would gladly avail themselves of such an opportunity of earning personal distinction and at the same time of doing honor to their country.

All that is needed, in addition to the money asked for, to equip the expedition, is the authorized use of one of these idle vessels and its crew to serve as a transport for the colony to the scene of action—making one voyage each year—and the authorized employment on this duty of fifty persons, whose compensation is already provided for in the several departments from which they would be detailed, and from which their services could be spared for the required period without detriment to the public service.

In view of the great value of the geographical and other scientific results to be reasonably hoped for from such an expedition, it does not seem that there should be any hesitation in acting favorably upon the subject and at an early date.

Very respectfully, your obedient servant,

H. W. HOWGATE.

Hon. A. A. SARGENT,
Chairman Committee on Naval Affairs United States Senate.

At the meeting of the Royal Geographical Society, January 23, 1865, Capt. Sherard Osborne read a paper on the "Exploration of the North Polar Region," from which the following extracts are made:

* * * * * * *

"An exploration of the polar area should always be sent under official auspices and official discipline. I have no faith in purely private expeditions on such a service as this I advocate. We need all the resources of a naval dock-yard; all the especial knowledge collected in various departments, whether in the preparation of vessels, food, raiment, sledges, or equipment, to insure the work being well and safely done. Wooden ships of war are now rotting and sinking at their anchors in our arsenals; all the old ladies around our sea-ports are cooking their tea with heart of oak from poor chopped-up gunboats.

* * * * * *

"But I have no doubt men of science, men who think the navy and its officers and sailors exist for nobler purposes than to slay or be slain, will find the first lord of the admiralty just as amenable to reason and healthy pressure as former first lords have been. The admiralty will, as good servants of the public, do whatever the public calls upon them to do; and it is by the action of public opinion, directed by the men of science in this country, that I hope to see a polar expedition sent forth in this generation under official auspices. The navy needs some action to wake it from the sloth of routine, and save it from the canker of prolonged peace. Arctic exploration is more wholesome for it, in a moral as well as a sanitary point of view, than any more Ashantee or Japanese wars. You are not going to educate us, work us up to the point of nautical perfection, awaken hopes and ambition, and then give us oakum to pick, or run us over the masthead after the top-gallant yards to keep down the spirit which intellectual progress has evoked. The navy of England cares not for mere war to gratify its desire for honorable employment or fame. There are other achievements it knows well, as glorious as a victorious battle, and a wise people should be careful to satisfy a craving which is the life-blood of a profession.

"Upon these grounds, as well as those of scientific results, would it be too much to ask for a fraction of the vast sum yearly sunk in naval expenditure, for two small screw vessels and one hundred and twenty officers and men, out of the fifty thousand men annually placed at the disposal of the admiralty?

* * * * * * *

"Of the advantages to be derived from an exploration of the polar area: In the first place there is an unknown area of 1,131,000 square miles of the globe's surface a sheer blank. Within that area we are profoundly ignorant whether there be lands or waters; whether, as some say, it is a silent frozen solitude, or an open sea teeming with animal life. So far as it has yet been explored in that direction, the land has been found capable of supporting not only animal but human life.

* * * * * * *

"To botanists, therefore, as well as geographers, there is everything to be discovered within the polar area, and not only the botany of the land, but that of the sea and of the fresh water, lakes, and rivers flowing from the glaciers of that ice-bound region."

* * * * * * *

The following extracts are from the remarks made upon Captain Osborne's paper by members of the Society:

Sir Roderick Murchison, president of the Royal Geographical Society, said:

"Let us not weaken the dignity of our calling by any endeavor to show the *cui bono* of such an expedition by the hope of obtaining profitable commercial results, since it is quite enough for us to be assured that the scientific objects to be obtained are well worthy of the effort. I trust, therefore, that, as British geographers, you will feel with me that it specially pertains to our nation, which, by the conduct of its bold and skillful voyagers, has delineated on the map of the world the outlines of land and water over so large an area of the arctic regions, to complete these grand surveys by an endeavor to hoist the union jack at the North Pole itself."

The president also read the following extract from the writings of Sir John Barrow, for many years secretary of the admiralty:

"The *physical* power of the navy of England has long been duly appreciated at home; also by most foreign nations, and is matter of public record. Its *moral* influence, though less the object of publicity, requires only to be more extensively known to be equally felt and esteemed; and nothing can be more conducive to this end than the results to be derived from voyages of discovery, whose great aim has been the acquisition of knowledge, not for England alone, but for the general benefit of mankind. But it may be asked *cui bono* are these northern voyages undertaken? If they were merely to be prosecuted for the sake of making a passage from England to China, and for no other purpose, their utility might fairly be questioned. But when the acquisition of knowledge is the ground-work of all the instruction under which they are sent forth; when the commanding officer is directed to cause constant observations to be made for the advancement of every branch of science—astronomy, navigation, hydrography, meteorology, including electricity and magnetism—and to make collections of subjects of natural history; in short, to lose no opportunity of acquiring new and important information and discovery; and when it is considered that these voyages give employment to officers and men in time of peace, and produce officers and men not to be surpassed, perhaps not equaled, in any other branch of the service, the question *cui bono* is readily answered in the words of the minister of Queen Elizabeth, 'Knowledge is power.'"

General Sabine, president of the Royal Society, said, "He was particularly impressed by what had been said with regard to affording to the officers of the navy an opportunity of enterprise and distinction in a time of peace, and he knew no better field for their exertions than explorations in the arctic regions. Many of our most distinguished officers of the navy had been trained in that school. It was not to be

supposed that in the present day, when the interest in geographical, and in all the physical sciences, has so much increased, that so large a portion of the globe, lying almost at our hands, should remain unexplored."

At the meeting of the Royal Geographical Society, April 10, 1865, the president, Sir Roderick Murchison, said: "I will not deign to contrast the feeble and irrelevant argument put forth by timid persons as to the danger to be incurred by polar navigators, for surely the British navy has not come to the condition that, with their present great means and appliances, they cannot emulate and surpass the efforts of Hudson and our earliest voyagers in their little cock-boats. If there were great danger to be encountered in this projected expedition, it would indeed be only an additional stimulus to our brave seamen; but, as a matter of fact, there have been many fewer losses of life in the Arctic or Antarctic seas than other quarters of the globe over which sailors are bound to roam."

The committee report the bill back and recommend its passage.

O

ONGRESS, } SENATE. { REPORT
Session. } { No. 95.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 13, 1878.—Ordered to be printed.

GENT, from the Committee on Naval Affairs, submitted the following

REPORT:

nmittee on Naval Affairs, to whom was referred the memorial of William Chandler, late of the United States Navy, respectfully re-

the memorialist is not entitled to the relief prayed for. We ncur with the views of the Secretary of the Navy, as set out llowing letter, and ask to be discharged from the further consid- of the case:

NAVY DEPARTMENT, *Washington, February* 6, 1878.

have the honor to return herewith the memorial of William Chandler, re- the Committee on Naval Affairs to department, praying that he may be al- e difference between the pay of a lieutenant and that of a commander from er 14, 1855, to December 22, 1858.

andler was dismissed the naval service October 27, 1861, by order of President and is supposed to have joined the Confederates.

ords of the department show that on the 13th of September, 1855, he being utenant in the Navy, he was placed on the reserved list on "furlough pay," act of February 28, 1855; that he was transferred to "leave of absence pay" served list from January 14, 1858; that on the 6th of January, 1859, he was oned a commander on the active list from September 14, 1855, and October was dismissed as above stated.

ot by law entitled to the difference of pay he asks for, but Congress may see case is sufficiently meritorious, to give it to him.

partment does not consider his case or claim entitled to the desired legislation. ry respectfully,

R. W. THOMPSON,
Secretary of the Navy.

. A. SARGENT,
Chairman Committee on Naval Affairs, United States Senate.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 96.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 15, 1878.—Agreed to and ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of William C. Shimoneck, Third Regiment United States Infantry, asking an increase of pension because of disability resulting from hypertrophy of the heart, find on examination that the applicant is now enjoying a pension of $6 per month; that his application for increase has been rejected by the Pension Bureau on the ground that his disability does not entitle him to a higher rate of pension. There is nothing in the papers or evidence to satisfy the committee that this decision is incorrect, and they therefore report adversely on the petition, and ask that its further consideration be indefinitely postponed.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 97.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 15, 1878.—Agreed to and ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Mrs. Ema J. Crain, daughter of George Smith, late a private Company C, Ninety-fourth Illinois Regiment, find, on examination, that the petitioner claims as the daughter of said Smith, who died in service in 1862. No application was made for pension as daughter and dependent relative until 1877; that the petitioner attained the age of sixteen years in 1868, nine years before application was made. As the law limits the period within which such application must be made to five years after the claimant shall have attained the age of sixteen years, and as no evidence of marriage of the father and mother is submitted, your committee ask to be discharged from the further consideration of the petition.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 98.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 15, 1878.—Ordered to be printed.

Mr. RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 97.]

The Committee on Military Affairs, to whom was referred the bill (S. 97) authorizing the Secretary of War to grant permission to the proprietors of salmon-fisheries now located on Three Tree Point military reservation, on the Columbia River, in Washington Territory, to remain on said reservation, have had the same under consideration, and submit the following report:

This is a bill which authorizes the Secretary of War to permit the proprietors of certain salmon-fisheries to remain on the Three Tree Point military reservation in Washington Territory, upon a small portion of which, about an acre in extent, these proprietors have erected buildings for packing or canning salmon at an outlay of several thousand dollars. The record shows conclusively that the original location or settlement upon this piece of land was made in good faith by parties, to whom the present occupants are successors by purchase, about the month of November, 1875, the same having been bought by them of one John Bergmann, a settler upon and occupant of the same. The lands were occupied without knowledge of any existing reservation until some time in May, 1876, when it was rumored and subsequently ascertained to be true that a military reservation had been established thereupon, now known as the Three Tree Point reservation.

It further appears that the purchase of the land and the erection of the buildings thereon were acts of good faith on the part of the proprietors, who in no sense are amenable to the charge of being original trespassers. It was not supposed, nor did any of these parties or their successors have the slightest knowledge at the time of making such settlement or erecting buildings, that said land had been or was intended to be reserved for government purposes.

General O. O. Howard, in a letter dated Portland, Oreg., May 17, 1876, writes to Mr. James Laidlaw that he finds no record of such reservation, and offers to recommend that this land be thrown open to settlement. It also appears that the proprietors endeavored to have the land surveyed at private expense for this purpose; also, that they communicated with the various bureaus of the government in the effort to secure a recognition of their title in some tangible shape.

In the month of November, 1876, Mr. Laidlaw, of Portland, Oreg., agent for Fitzpatrick, Davis & Co.'s salmon-cannery, was informed by Capt. H. Clay Wood, assistant adjutant-general department of the

Columbia, that the proprietors of the cannery were trespassers on the said military reservation, demanding to know by what authority they were so located, and calling their attention to the facts. It may be proper here to append the correspondence with Senator Mitchell, the General Land Office, and with Captain Wood, which will more clearly demonstrate the situation of affairs and the good faith attending them.

A

PORTLAND, *July* 25, 1876.

DEAR SIR: There is a reservation, marked upon all maps of Washington Territory, situated in Pacific County, and apparently about six miles in extent along the river bank. This land is unsurveyed, and upon it are situated several salmon-canneries, of one of which I am agent.

As no one here or at the land-office, Olympia, seems to know anything about the reservation, which is marked as an Indian reserve, and part of it supposed to be reserved for military purposes, I am forced to trouble you about the matter, and I trust you will kindly excuse my doing so.

The several canneries have appointed me agent to procure a survey and information about the reserve. Some doubt whether the tract has ever been located as a reservation; and if you will kindly procure me all the information you can about its extent, whether Indian or military, when reserved, and whether there is any likelihood of its being thrown open, I will gladly reimburse you for any expense incurred in procuring the information.

I wish to be fully informed before I apply to Mr. McMicken for a survey, which will cost some money.

Trusting you will excuse my troubling you, and awaiting your early reply,

I am, your obedient servant,

JAMES LAIDLAW.

P. S.—If you will kindly forward me the volumes annually published by Congress relating to foreign affairs, which are specially interesting to me as British vice-consul, I shall be much obliged.

Hon. J. H. MITCHELL,
U. S. Senator, Washington, D. C.

B.

PORTLAND, *August* 25, 1876.

MY DEAR SIR: I thank you for your kind attention to my inquiry about reservation in Pacific County, and fearing that you will have left ere this reaches you, I have returned map to the Commissioner, with fuller information.

Yours, very respectfully,

JAMES LAIDLAW.

Many thanks for volumes on foreign affairs duly received

Hon. J. H. MITCHELL,
U. S. Senator, Washington, D. C.

C.

WASHINGTON, *August* 5, 1876.

MY DEAR SIR: I beg respectfully to acknowledge receipt of your communication of inquiry in reference to reservation, &c., just at hand. I will give the subject diligent examination and advise you fully at an early day.

Very respectfully.

JOHN H. MITCHELL.

Hon. JAMES LAIDLAW,
Vice-Consul, Portland, Oreg.

D.

WASHINGTON, D. C., *August* 7, 1876.

SIR: In acknowledging the receipt of your letter of the 5th instant, covering one from James Laidlaw, addressed to you under date Portland, Oreg., July 25, 1876, herewith re-

turned, I have the honor to say that, the description given of the land by Mr. L. being vague, I am unable to give him the desired information.

In order, however, to afford your correspondent facility of indicating the locality in question, I inclose herewith a diagram of Washington Territory, whereon Mr. Laidlaw may show the particular township and range embracing the supposed Indian and military reservation, and upon the receipt of the additional description further inquiry and search will be instituted, and such information communicated to Mr. Laidlaw as the records will show.

Very respectfully, &c.,

J. A. WILLIAMSON.

Hon. J. H. MITCHELL,
U. S. Senate.

E.

PORTLAND, OREG., *August* 25, 1876.

SIR: The Hon. Mr. Mitchell has inclosed to me copy of your letter 7th instant to him regarding a supposed Indian and military reservation in Pacific County, Washington Territory, regarding which I had made inquiry. I return herewith the map therein inclosed, and have noted upon it the position of the land in question, in township 9 north, range 7 west.

No one in this section seems to know anything about this reservation, and I would be thankful if you would cause inquiry to be instituted and give me all the information in your power.

I have the honor to be, your obedient servant,

JAMES LAIDLAW.

Hon. J. A. WILLIAMSON,
Commissioner General Land Office, Department of Interior, Washington, D. C.

F.

DEPARTMENT OF INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., September 8, 1876.

SIR: Referring to my letter of the 7th ultimo to Hon. J. H. Mitchell, on the subject of a supposed reservation of some kind on the north bank of the Columbia River, in Washington Territory, and referring to your letter dated the 25th ultimo, inclosing a diagram on which you have indicated the situation of such supposed reservation as in township 9 north, range 7 west, of Willamette meridian, I have to inform you that an examination of the records of this office fails to show that any reservation by the government of any kind exists in the township indicated, which township is yet unsurveyed.

Very respectfully,

U. J. BAXTER,
Acting Commissioner.

Hon. JAMES LAIDLAW,
British Vice-Consul, Portland, Oreg.

G.

HEADQUARTERS DEPARTMENT OF COLUMBIA,
Portland, Oreg., November 24, 1876.

SIRS: Investigation has shown that several buildings, known as a salmon-cannery, and alleged to be owned by Fitzpatrick, Davis & Co., have been erected upon the Three Tree Point, military reservation, on the right bank of the Columbia River, in Wahkiakum County, Washington Territory.

It is the duty of the department commander to remove by force squatters or trespassers from this reservation. Before, however, resorting to extremities, the department commander desires me to call your attention to the subject, and to request information by what authority, if any, these buildings have been there erected. It is presumed the owners erected these buildings with a full knowledge that the land was reserved, and if there without due permission, they are squatters and trespassers, and the improvements belong to the United States. Early attention must be given to this matter.

I have the honor to be, very respectfully, your obedient servant,

H. CLAY WOOD,
Asistant Adjutant-General.

JAMES LAIDLAW & CO.,
Portland, Oreg., Agents Fitzpatrick, Davis & Co.'s, Salmon Cannery, Fisherton, W. T.

HEADQUARTERS DEPARTMENT OF THE COLUMBIA,
Portland, Oreg., December 20, 1876.

SIR: I am instructed by the department commander, in reply to your communication of the 29th ultimo, to inform you that, pending action by the War Department or superior authority in the premises, the buildings erected by you upon the Three Tree Point military reservation will not be disturbed; but this permission gives you no authority to cut timber or fire-wood upon said reservation, which is hereby expressly prohibited; nor, by virtue of this permission, do you gain any rights as against the United States.

You are also prohibited from making any additional improvements upon the reservation. Any action had by the War Department will be duly communicated to you.

Very respectfully, your obedient servant,

H. CLAY WOOD,
Assistant Adjutant-General.

MESSRS. JAMES LAIDLAW & CO.,
Agents Fitzpatrick, Davis & Co,'s Salmon-Cannery, Fisherton, W. T.

H.

PORTLAND, OREG., *November* 29, 1876.

SIR: We have received your letter of 24th inst., and in reply thereto have to say, that about December, 1875, Fitzpatrick, Davis & Co., looking for a suitable site for a salmon-cannery, bought from one John Bergmann, then residing at the place since called Fisherton, sufficient ground whereupon to erect the necessary buildings, and thereafter proceeded to build. They were aware that the land was unsurveyed, but not that it was a military reservation, and they received no warning that they were trespassing. Some time afterward, we, their agents, heard some rumors to the effect that there was a reservation of some kind or other in the township in which their cannery was built, and proceeded to inquire into the matter, but could get no definite information as to whether there was or was not a reservation there. Mr. Laidlaw, through Senator Mitchell, communicated with the General Land Office, at Washington, D. C., and was informed, in a letter from Mr. Baxter, Acting Commissioner, that "an examination of the records of this office fails to show that any reservation by the government of any kind exists in the township indicated, which township is yet unsurveyed." Upon receipt of this intelligence, Fitzpatrick, Davis & Co. proceeded to make further improvements, feeling assured that they were justified in doing so.

As the value of these improvements is not less than $15,000, and as it would be a grievous loss to all parties concerned were they interdicted from carrying on the business at present, we beg to request permission to continue the business at Fisherton for at least one year, or until some definite arrangement can be made with the authorities.

We have the honor to be, sir, your obedient servants,

JAMES LAIDLAW & CO.

Assistant Adjutant-General H. CLAY WOOD,
Portland, Oreg.

The information transmitted by the War Department to your committee shows that this military reservation has never been occupied by troops, and is embraced in a list of unoccupied military posts and reservations, being classed among the military reservations in charge of engineers or used for light-house purposes. The reservation was originally made upon the recommendation of an engineer officer, and it is the inference of the War Department that its present importance, if any, is as a site for defensive works, being included in a system of defenses for the mouth of the Columbia River. The original reservation contained $802\frac{61}{100}$ acres; but the excess of $162\frac{61}{100}$ acres was taken therefrom and the tract reduced to 640 acres. There have been no defensive works, nor works of any character, erected or built upon the reservation; nor does it appear any such works are contemplated to be erected by the military authorities.

General McDowell recommended, at one time, that these proprietors be permitted to lease the small tract of land occupied by them for fishery and canning purposes, which is a mere point of rocks, and approachable only by water; but the recommendation was not approved by the

General of the Army, because such lease would be an infringement upon and in derogation of an opinion of the Attorney-General, that the Secretary of War had no authority so to do except in pursuance of an express act of Congress. (Opinions 13, page 46.) But in view and in consideration of the good faith shown by these proprietors in their original settlement and occupation, and the attendant facts and circumstances as to their efforts to secure title and avoid trespass upon government property, the military authorities have granted them permission to remain upon the premises until August 30, 1878, the close of the salmon-canning season for the current year, when they will be required, unless Congressional action be had to the contrary, to take down and remove their buildings and property and vacate the premises.

The record nowhere shows that in any exigency of war these buildings and the occupancy of the piece of land by these proprietors will interfere with the speedy erection of defensive works. Should such exigency arise, and any dispossessment of these proprietors be required for the purposes of military operations, then the same must necessarily be at their risk; and if they be willing to incur the attendant consequences, the government can in nowise be injured.

The question, then, naturally arises whether it would be just and equitable, under all these circumstances, to compel these proprietors to vacate and remove their property on August 30th, next, as required by the military authorities, with the consequent injury and expense which such removal would necessarily entail upon them and the industry in which they have invested large capital, particularly when they appear to have acted in the best possible faith through all their transactions in these premises? The following correspondence between Mr. Spencer, chairman of your committee, and Mr. Mitchell, Senator from Oregon, respecting the probabilities of the reservation being used for military purposes, the value of improvements, and the capital invested in the salmon-fisheries in that locality, is herewith appended:

UNITED STATES SENATE CHAMBER,
Washington, February 8, 1878.

SIR: Referring to S. 97, bill to allow the proprietors of the salmon-fisheries to remain on the Three Tree Point reservation, now pending before the Committee on Military Affairs for report, please advise the committee, if you are apprised of the facts, whether this occupancy will interfere with any erection of defensive works, if such be contemplated hereafter. Also, what is the aggregate amount of capital invested, and the value of the branch of industry known as salmon fishing and canning in that section, together with such suggestions as may be pertinent to the issue.

Very respectfully,

GEO. E. SPENCER,
Chairman.

Hon. J. H. MITCHELL,
Senator in the Congress of the United States.

UNITED STATES SENATE CHAMBER,
Washington, February 11, 1878.

DEAR SIR: I beg respectfully to acknowledge receipt of your letter of the 8th inst., calling my attention to Senate bill No. 97, to allow the proprietors of the salmon-fisheries to remain on the Three Tree Point reservation, which bill is now pending before your committee, and in which you ask me to advise the committee, if I am apprised of the facts, whether this occupancy will interfere with any erection of defensive works, if such be contemplated hereafter; and also making inquiry as to the aggregate amount of capital invested and the value of the branch of industry known as salmon fishing and canning in that section, together with such other suggestions as may be pertinent to the issue.

Being familiar with the location of this military reservation, I think I may safely say that it is not within the range of probability that any defensive works will be erected at that point by the government in the next fifteen or twenty years, if indeed then. And even should commercial aids be established there, such as light-house, &c., which is not probable for some years at least, I cannot see that the present fisheries would interfere. I under-

stand the aggregate amount of capital invested in the erection of these fisheries within the limits of this reservation, and all of which I believe to have been erected in good faith and without any knowledge of the fact that the same was on a military reservation, is about $30,000. The salmon-fishing industry on the Columbia River is one of great importance. The value of the catch this coming season will doubtless be between three and four million dollars.

It seems to me that no injustice whatever would be done the government by permitting these parties to remain at present and for some reasonable time to come where they are now located.

Very respectfully,

JOHN H. MITCHELL.

Hon. GEORGE E. SPENCER,
Chairman Military Committee, U. S. Senate.

In view of the facts that this reservation is not occupied nor utilized for military or commercial purposes, and the probability of such occupancy in the future appears to be very remote, your committee are of opinion that no wrong or injury can possibly accrue to the government by permitting these proprietors to remain upon the premises, at least pending the non-occupancy thereof by the military arm of the public service.

Large capital has been invested by them and an industry developed which adds materially to the commercial wealth of that locality and necessarily to the general benefit of the country. To injure or impair this special industry under the circumstances presented would seem unnecessary, if not wanton. A large number of people are employed by these proprietors in catching and canning salmon, who, if driven from the premises, would doubtless suffer injury and deprivation in many ways by loss of their occupation. Your committee, therefore, recommend the passage of the bill, with amendment, providing for a lease with these proprietors by the Secretary of War.

TH CONGRESS, 2d Session. } SENATE. { REPORT No. 99.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1878.—Ordered to be printed.

:. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 527.]

ıe Committee on Pensions, to whom was referred the bill (S. 527) granting a pension to Morris B. Slosson, having had the same under consideration, submit the following report:

The report of the Baltimore board of examining-surgeons, in Decem-ır, 1873 (the latest evidence in the case), shows that at that date the aimant was "not incapacitated from obtaining his subsistence by man-al labor" by reason of the wound on which his claim is based, and that ıe disability therefrom is "nothing." The committee therefore recom-ıend that the bill be indefinitely postponed.

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45TH CONGRESS, 2d Session. | SENATE | REPORT No. 100.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1878.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 755.]

The Committee on Pensions, to whom was referred the petition of Martha C. Kendall for a pension, have examined the same, and report:

The claimant is the mother of Isaac G. Kendall, deceased, a soldier who died in the service of the United States during the late civil war. The soldier enlisted February 4, 1862, as a private in Company K, Sixteenth Wisconsin Volunteers, at Camp Randall, and died in hospital there on or about March 20, 1862, of measles. It is clear from the evidence that the young soldier was the only support of claimant and of his father, who was so old and so disabled by disease as to be unable to furnish to the family that support which was given by the son. The claimant's claim was rejected by the Pension Bureau on the single ground that it did not appear with sufficient certainty that the disease of which the soldier died was contracted while in the line of his duty in the service of the United States. This finding is based on the casual statement of one witness, who, in testifying to facts tending to show that the soldier, before and after his enlistment, supported his father and mother, stated he saw the soldier when at home on a short furlough; that he (witness) then had measles, and thought perhaps the soldier caught the disease from him. But the evidence of another witness shows clearly that when the soldier got home on furlough he complained of feeling quite unwell. It further appears that upon the expiration of his short furlough he returned to camp, taking with him two new recruits; that the disease was soon after fully developed, and that he died as stated. It is well known that in the Northwestern States this particular disease (measles) prevailed to a greater or less extent in every new regiment, and proved fatal in many cases. Your committee are of opinion that it is sufficiently proved that the disease of which the deceased soldier died was contracted while in the line of his duty in the service of the United States, and that under the law the claimant is entitled to the relief sought, and, therefore, report a bill for her relief and recommend its passage.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 101.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 18, 1878.—Agreed to and ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Daniel B. Smith and Rebecca Smith, asking to be allowed a pension on account of the services of their son, Henry S. Smith, late of Company I, Twelfth Regiment Indiana Volunteers, having examined the petition and accompanying papers, find that a pension is now being paid to Rebecca Smith as the dependent mother of said Henry S. Smith, and this petition asks additional aid, because the amount allowed is not sufficient to provide a support for this aged couple, now exceedingly infirm and helpless. The committee, while sympathizing with the sufferings of the petitioners, can find no warrant or authority under the pension laws for granting the relief proposed. Your committee, therefore, ask that the petition be indefinitely postponed.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 102.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 19, 1878.—Ordered to be printed.

Mr. SPENCER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 560.]

The Committee on Military Affairs, to whom was referred the bill (S. 560) for the relief of William A. Hammond, late Surgeon-General of the Army, have had the same under consideration, and submit the following report:

This is a bill which provides that the President shall be authorized to review the proceedings of the general court-martial convened by Special Order No. 24, War Department, Adjutant-General's Office, Washington, January 16, 1864, and by which William A. Hammond, then Surgeon-General of the Army, was tried, and to annul and set aside the findings and sentence of said court-martial, approved by the President August 18, 1864, and published in General Court-Martial Orders No. 251, War Department, Adjutant-General's Office, Washington, August 20, 1864, if, after such review, the President shall deem it right and proper so to do.

The bill further provides that in the event the findings and sentence of the said court-martial shall be annulled and set aside, as provided in the first section of the bill, then the President shall be further authorized to place Dr. Hammond's name on the retired list of the Army as Surgeon-General, without any pay or allowances whatever, past, present or future.

The record shows that at the dates mentioned in the bill, Dr. William A. Hammond, then Surgeon-General of the Army, was brought to trial by court-martial on various charges and specifications of official dereliction of duty, upon a portion of which he was found guilty by the court and sentenced to be dismissed the service, and forever disqualified from holding any office of honor or trust under the government. This is his first application to the Congress of the United States for relief from what he alleges to have been an unjust and illegal sentence, unsustained by the evidence and unwarranted by precedent.

From the papers filed in this case, it appears by certificates from professors of medical colleges and various leading and eminent physicians, that Dr. Hammond holds the highest rank in his profession and is justly esteemed as foremost among American physicians and surgeons, not only in the estimation of home but of foreign medical institutions and faculties. He is a leading author and standard authority upon intricate and occult matters of medical science, whose works are quoted in all civilized countries, and whose opinions and deductions are per-

mitted to weigh in evidence in courts of law. His private character as to integrity in all essentials is attested by his *confrères* of the medical profession, and also by eminent citizens, all of whom unite in expressing the hope that Congress will afford him the relief he seeks and the vindication which, it is insisted, he is entitled under the circumstances, to receive at the hands of Congress.

The charges upon which Dr. Hammond was tried were as follows:

CHARGE I.—"Disorders and neglect to the prejudice of good order and military discipline."

Specification 1st. "In this: that he, Brigadier-General William A. Hammond, Surgeon-General United States Army, wrongfully and unlawfully contracted for and ordered Christopher C. Cox, as acting purveyor in Baltimore, to receive blankets of one William A. Stephens, of New York. This done at Washington City, on the seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two."

Specification 2d. "In this: that he, Brigadier-General William A. Hammond, Surgeon-General as aforesaid, did, on the first day of May, in the year of our Lord one thousand eight hundred and sixty-three, at Washington City, wrongfully and unlawfully, *and with intent to favor private persons resident in Philadelphia*, prohibit Christopher C. Cox, as medical purveyor for the United States, in Baltimore, from purchasing drugs for the Army in said city of Baltimore."

Specification 3d. "In this: that he, the said Brigadier-General William A. Hammond, Surgeon-General United States Army, did unlawfully order and cause one George E. Cooper, then medical purveyor for the United States, in the city of Philadelphia, to buy of one William A. Stephens, blankets for the use of the government service of inferior quality, he, the said Brigadier-General William A. Hammond, then well knowing that the blankets so ordered by him to be purchased, as aforesaid, were inferior in quality, and that said Purveyor Cooper had refused to buy the same of said Stephens. This done at Philadelphia, in the State of Pennsylvania, on the twenty-eighth day of May, in the year of our Lord one thousand eight hundred and sixty-two."

Specification 4th. "In this: that he, the said Brigadier-General William A. Hammond, Surgeon-General, as aforesaid, on the fourteenth day of June, in the year of our Lord one thousand eight hundred and sixty-two, at the city of Washington, in the District of Columbia, unlawfully, and with intent to aid one William A. Stephens to defraud the Government of the United States, did, in writing, instruct George E. Cooper, then medical purveyor at Philadelphia, in substance as follows:

"'SIR: You will purchase of Mr. W. A. Stephens eight thousand pair of blankets, of which the inclosed card is a sample. Mr. Stephens's address is box 2500, New York. The blankets are five dollars per pair.'

—*and which blankets so ordered were unfit for hospital use.*"

Specification 5th. "In this: that he, the said Brigadier-General William A. Hammond, Surgeon-General United States Army, on the sixteenth day of June, in the year of our Lord one thousand eight hundred and sixty-two, at the city of Washington, did corruptly, and with intent to aid one William A. Stephens to defraud the Government of the United States, give to the said William A. Stephens an order in writing, in substance as follows: 'Turn over to George E. Cooper, medical purveyor at Philadelphia, eight thousand pair of blankets,' by means whereof the said Stephens induced said Cooper, on government account, and at an exorbitant price, to receive of said blankets which he had before refused to buy, seventy-six hundred and seventy-seven pair, and for which the said Stephens received payment at Washington, in the sum of about thirty-five thousand three hundred and fourteen dollars and twenty cents."

Specification 6th. "In this: that he, the said Brigadier-General William A. Hammond, Surgeon-General United States Army, on the thirty-first day of July, in the year of our Lord eighteen hundred and sixty-two, at the city of Philadelphia, in the State of Pennsylvania, well knowing that John Wyeth and Brother had before that furnished medical supplies to the medical purveyor at Philadelphia, which were inferior in quality, deficient in quantity, and excessive in price, did corruptly, unlawfully, and with intent to aid the said John Wyeth and Brother to furnish additional large supplies to the Government of the United States, and thereby fraudulently to realize large gains thereon, then and there gave to George E. Cooper, then medical purveyor at Philadelphia, an order, in writing, in substance as follows: 'You will at once fill up your storehouses, so as to have constantly on hand hospital supplies of all kinds for two hundred thousand men for six months. This supply I desire that you will not use without orders from me.' And then and there directed said purveyor to purchase a large amount thereof, to the value of about one hundred and seventy-three thousand dollars, of said John Wyeth and Brother.

Specification 7th. "In this: that he, the said Brigadier-General William A. Hammond, Surgeon-General United States Army, about the eighth day of October, in the year of our Lord eighteen hundred and sixty-two, at Washington City, in contempt of and

contrary to the provisions of the act entitled 'An act to reorganize and increase the efficiency of the Medical Department of the Army,' approved April 16, 1862, did *corruptly and* unlawfully direct Wyeth and Brother, of Philadelphia, to send forty thousand cans of their 'Extract of Beef' to various places, to wit: Cincinnati, Saint Louis, Cairo, New York, and Baltimore, and send the account to the Surgeon-General's Office for payment, and which extract of beef so ordered was of inferior quality, unfit for hospital use, unsuitable and unwholesome for the sick and wounded in hospitals, and not demanded by the exigencies of the public service."

Specification 8th. "*In this: that he, the said Brigadier-General William A. Hammond, Surgeon-General United States Army, about the first day of March, in the year of our Lord eighteen hundred and sixty-three, at Washington City, in disregard of his duty, of the interests of the public service, and of the requirements of the act entitled 'An act to reorganize and increase the efficiency of the Medical Department of the Army,' approved April* 16, 1862, *did order and direct that the medical inspectors should report the result of their inspections direct to the Surgeon-General.*"

CHARGE II.—"Conduct unbecoming an officer and a gentleman."

Specification 1st. "In this: that he, Brigadier-General William A. Hammond, Surgeon-General United States Army, on the thirteenth day of October, in the year of our Lord eighteen hundred and sixty-two, at Washington City, in a letter by him then and there addressed to Dr. George E. Cooper, declared in substance that the said Cooper had been relieved as medical purveyor in Philadelphia, because, among other reasons, 'Halleck,' meaning Major-General Henry W. Halleck, General-in-Chief, requested, as a particular favor, that Murray might be ordered to Philadelphia; which declaration so made by him, the said Brigadier-General William A. Hammond, Surgeon-General as aforesaid, was false."

CHARGE III.—"Conduct to the prejudice of good order and military discipline."

Specification 1st. "In this: that he, the said Brigadier-General William A. Hammond, Surgeon-General United States Army, on the eighth day of November, A. D. 1862, at Washington City, did unlawfully *and coruptly* order *and cause* Henry Johnson, then medical storekeeper and acting purveyor at Washington City, to purchase three thousand blankets of one J. P. Fisher, at the price of $5.90 per pair, and to be delivered to Surgeon G. E. Cooper, United States Army, medical purveyor at Philadelphia."

Specification 2d. "*In this: that he, the said Brigadier-General William A. Hammond, about the third day of December*, A. D. 1862, *at Washington City, unlawfully purchased and caused to be purchased, of J. C. McGuire & Co., large quantities of blankets and bedsteads, and which were not needed for the service.*"

The words printed in italics were those of which he was found "Not guilty."

The findings of the court were as follows:

CHARGE I.

Of the 1st specification, "Guilty."

Of the 2d specification, "Guilty," and that the offense therein charged was committed on the 30th day of May, A. D. 1863, except as to the words "with intent to favor private persons resident in Philadelphia"; and as to which words so excepted, "Not guilty."

Of the 3d specification, "Guilty."

Of the 4th specification, "Guilty," except as to the words "and which blankets so ordered were unfit for hospital use"; and as to which words so excepted, "Not guilty."

Of the 5th specification, "Guilty."

Of the 6th specification, "Guilty."

Of the 7th specification, "Guilty," except as to the words "corruptly and," "and which extract of beef so ordered was of inferior quality, unfit for hospital use, unsuitable, and unwholesome for the sick and wounded in hospitals, and not demanded by the exigencies of the public service"; and of the words so excepted, "Not guilty."

Of the 8th specification, "Not guilty."

Of the 1st charge, "Guilty."

CHARGE II.

Of the 1st specification, "Guilty."

Of the 2d charge, "Guilty."

CHARGE III.

Of the 1st specification, "Guilty," except as to the words "and corruptly," "and caused"; and as to which words so excepted, "Not guilty."

Of the 2d specification, "Not guilty."

Of the 3d charge, "Guilty."

A careful, unbiased and searching scrutiny of the evidence adduced upon the trial, as presented and reviewed by Dr. Hammond, as well as mature consideration of the argument of the distinguished counsel who represented Dr. Hammond on the occasion of his trial, forces irresistibly the conclusion that the gravamen of all the charges, save one, was either disproved by the defense, abandoned by the prosecution, or eliminated by the findings of the court. The single charge of which the gravamen was not found wanting by the court, was in itself trifling if not frivolous, and certainly insufficient in character and importance to arraign, try, convict and pronounce sentence thereupon, in the manner and form as are in the records of the court-martial set forth.

It is not deemed proper by your committee (in deference to the earnest request of Dr. Hammond, made to the sub committee, that none of the bickerings, jealousies and untoward incidents and facts should be revived or animadverted upon, and that the "dead past should bury its dead") to review or pronounce upon the promptings that impelled or the motives which gave birth to the proceedings by which he was court-martialed, dismissed the service and forever debarred from holding any office of honor or trust under the government.

The period when the difficulties originated between Secretary Stanton and Surgeon-General Hammond was one replete with perplexities and troubles. A great civil war was in progress, large armies were arrayed in active hostilities, and the issue of events was uncertain and indeterminate. There were, of necessity, antagonisms, ambitions and jealousies without number, embarrassing and hampering the authorities. Chaos reigned supreme, and the untoward fate of a single person, just or unjust, merited or unmerited, whether in exalted or humble station, weighed not a feather in the momentous balance. Men of elevated rank and reputation were cast from their high estates to give place to others, in some cases the experiment utterly failing and the speculation proving valueless, while in others yielding good return. Success was the touchstone, and to the moloch of its attributes, or what was conceived to be its necessities, victims were daily, nay hourly, sacrificed. Into this whirlpool of events Dr. Hammond was drawn and carried down. The history of that era is an open book, known to and read by all the world.

The history of the Medical Department of the Army, prior and up to the period when Dr. Hammond was selected from the junior surgeons to fill the responsible position of Surgeon-General, together with the changes in that department after the development of the late rebellion, made at the instance and under the auspices of the humanitarian association known as "The United States Sanitary Commission," is detailed in Stillé's valuable "History of the United States Sanitary Commission," published by Lippincott & Co., Philadelphia, 1866 (8 vo., pp. 553), a copy of which is filed with and made part of the record in this case. This book is the authorized and authentic publication of the Sanitary Commission, detailing their experiences, researches and action in the various essentials of Army relief during the recent war for the suppression of the rebellion, edited by Prof. Charles J. Stillé, being an epitome of the general history of the Commission's origin, purposes and methods of operation; a narrative of their special relief service, and an account of the organization and practical working of their supply system.

Representing, as is stated in the book, the popular benevolence of the country toward the Army, and with a full view of all the facts, the Sanitary Commission became satisfied that nothing less than a complete reorganization of the Medical Bureau of the Army would remedy the

difficulties then existing. Their efforts were directed toward new legislation, and after various vicissitudes the Commission succeeded in securing the passage of the act of April 16, 1862, entitled "An act to reorganize and increase the efficiency of the Medical Department of the Army.

Inasmuch as Dr. Hammond's elevation to the position of Surgeon-General was the result of the deliberate action of the Sanitary Commission, upon careful view of the situation then existing, and determining the requisites of character, capacity and experiences necessary for such an incumbency, it is deemed pertinent by your committee to extract from the book mentioned such portions of its contents as bear materially upon the case at issue. From these extracts, it is urged, every intelligent, unbiased, reflective mind must arrive at the conclusion that Dr. Hammond was made a victim to a series of antagonisms, reaching far and wide throughout the operations of the Medical Bureau of the Army, in the extraordinary exigency of civil war and pending the existence of the vast armies then arrayed against each other. There were the jealousies of his corps officers overslaughed in rank, the rapacity of greedy contractors, vultures preying upon the carcass of the country, bickerings among surgeons appointed from civil life, the distresses of the sick, wounded and dying, the erection and maintenance of hospitals throughout the country, and thousands of antagonisms aggravated by personal controversies of almost every nature. Let the Sanitary Commission tell the tale in their own language:

[Extracts from Stillé's "History of the Sanitary Commission."]

The history of the Medical Department, previous to the war, is that of a bureau whose operations were confined to the wants of 15,000 men on a peace establishment. Its *personnel* consisted at the outbreak of the rebellion of a Surgeon-General, twenty-six surgeons, and eighty assistant surgeons. Of the surgeons, many were incapacitated for all duty, and one-half were unfitted for service in the field. The average length of service of the first thirteen on the list was thirty-two years, and that of the remaining, twenty-three years. By an act passed in 1834, a rigid examination of candidates for the post of assistant surgeon in the Army was made necessary, and many young men of promise were thus introduced into the medical staff. These officers were scattered at isolated points on the frontier, without access to books, having no contact with their professional brethren in civil life, and with very little opportunity, while their duties confined them to the medical care of a single company of soldiers, of improving themselves in a knowledge of that science which is, perhaps, of all others the most progressive. At these remote garrisons they were kept for at least five years, and the consequence was that, unless in rare and exceptional cases, their professional ambition became deadened from the simple want of a stimulus to preserve it in proper activity. Zeal for professional advancement, indeed, too often became subordinate to the interest which was felt in questions of military rank and precedence—petty subjects, the discussion of which in the absence of loftier topics enlivened the dull routine of garrison life. The progress of the war proved that many of these surgeons, particularly the younger among them, removed to a wider sphere of action and permitted to carry out a more liberal system, recovered from the pressure by which their energies during years of the mechanical performance of mere routine duties had become impaired. Some of them, indeed, during the war, gained great and deserved distinction by the executive ability which they displayed in the administration of some of the higher offices of the medical staff. Still the tendency of the condition of things by which the surgeons of the Army were surrounded before the war was necessarily toward complete stagnation in respect of everything which could stimulate a true professional zeal. Brilliant indeed must have been the powers and strong the thirst for professional knowledge which could long have resisted the deadening influence of a long exile from the great centers of science and civilization.

The operations of the bureau before the war were on a scale, and conducted upon a system, which may be inferred from the limited number of the members of the staff and the dispersion of the Army in small detachments in garrisons along our extensive frontier. The arrangements existing in European armies for the care of the sick and wounded, which had improved with the increasing knowledge of medical science and the more general diffusion of humane principles, were considered inapplicable to our limited establishment. Our medical authorities, therefore, as they had no occasion to imitate them, concerned themselves little about such improvements. It seems in-

credible, upon any other supposition, that deficiencies, such as were supplied during the war, could have existed at its commencement. It is perhaps still more extraordinary that any one who was at all familiar with the subject, could have supposed it possible that the old machinery, however modified, could have been made to perform the new work demanded of it.

Before the war no such establishment as a general hospital existed in the Army; the military hospitals were all post hospitals, that at Fort Leavenworth, the largest, containing but forty beds. It was necessary, therefore, to create in the midst of the crisis the entire system by which these establishments, so indispensable to the operations of a large army in the field, are governed. There were at that time no suitable buildings, no trained, efficient, and numerous medical staff; no well-instructed nurses, no regulations or arrangements for a suitable diet for the sick, or provision for their clothing; no properly understood relations between general hospitals and regimental hospitals; no means for supplying promptly proper medicines, and no arrangements for the humane and careful transportation of the sick and wounded. As we have before said, patients were crowded in the early part of the war into buildings wholly unsuited for their successful treatment. The agony and suffering which were endured by them during the first nine months of its continuance, owing to the delay in the construction of proper general hospitals, can never be accurately known, but it is not easy to overestimate it. The vivid recollection of the horrors of these miscalled hospitals, which were apparent at that time to the most careless observer, is all that is necessary now to justify the strenuous efforts which were made by humane men throughout the country to effect a radical change in the whole system.

Previous to the war there was no organized system of inspection of camps and hospitals as a means of enabling the Medical Department to perform its duties intelligently and thoroughly; indeed, no officer, bearing the name of inspector, or invested with functions such as have been for many years considered indispensable in foreign armies, could be found in ours. The greatest improvement in all modern administrative service has been the adoption of a system looking to the prevention of evils. The true principle has been ascertained to be, not to wait until the evil is developed, but to anticipate it; hence of all services in an army, that of the medical staff, whose business it should be, not merely to take care of sick men, but also to make provision that those in health should not become sick, requires the constant vigilance and intelligent inquiry of a thorough system of inspection. By such means alone can the causes which threaten the health of the troops be ascertained and their consequences guarded against. Inspectors, with such functions, would seem to be the eyes of the head of the department, and in any intelligent administration of its affairs their reports would be relied upon, to enable him to determine the general policy to be pursued in the performance of his duties. In no respect perhaps was the old Medical Bureau, in its attempt to apply its methods to the vastly increased needs of its new position, more obviously deficient than in this essential particular.

The practical administration of the affairs of the bureau was also much impeded by its strangely complicated relations with the Quartermaster's and Subsistence Departments of the Army. To the first of these belonged, by law, exclusively the construction of hospitals and their equipment, the vital matter of the transportation of the sick and wounded, and the performance of a number of other duties, seriously affecting the sanitary condition of the troops. To the other, the supply of their food, which in any large view of the question, as affecting their suitable alimentation, was a medical or at least a hygienic matter of the very first practical importance. The Medical Bureau was wholly powerless to control the action of either of these departments and so to shape their policy toward those who were sick, or toward those who, being well, were in danger, from neglect of proper precaution, of becoming sick, that they might receive the benefit of the vast modern improvements which have been made in this direction. Before the war, while the Army was small, and the number of officers of the medical staff so inconsiderable that the Surgeon-General was able to detect the non-accounting by any one of them of the most trifling article issued, the evils arising from so clumsy a system, were not very serious. There were no general hospitals, and therefore it was unnecessary for the officers of the Quartermaster's Department to provide any but the rudest form of accommodation for a small number of men. There were no large depots filled with thousands of recruits drawn from a class who lived comfortably in their own homes, and hence the ordinary ration had produced no inconvenience to those who enlisted in the Regular Army. But when the war began the whole scene changed. Almost immediately came the demand for properly-constructed general hospitals and a suitable alimentation for the newly-raised volunteers. The Medical Department was in popular estimation responsible for the whole difficulty, whereas, even had it then been able to see clearly the evil, it would have been powerless to provide a remedy. By law and by regulation the Quartermaster's Department was charged, as we have seen, with the duty of erecting and equipping the military hospitals. Its officers naturally hesitated to construct them on the vast scale and with all the appliances which were called for by those outside the govern-

ment, who claimed to have thoroughly investigated the subject. The proper construction of hospital buildings is, of course, a purely scientific question, understood only by medical men, who have had practical experience in the needs of such institutions. It was not to be expected that a matter so foreign to the ordinary duties of the officers of the Quartermaster's Department could be properly studied by them, particularly at the time when their strength was overtasked by the immense labor required for the performance of duties more in the line of their ordinary service. To bring about a harmonious combination between these two departments, to get the Medical Bureau, in the first place, to see the absolute necessity for the erection of suitable buildings upon a large scale, without delay, and then to convince the Quartermaster's Department of the propriety of executing the plans, on the requisition of the Medical Bureau, was a matter which involved, in the condition of things at that time, serious difficulties, and required most patient and persistent effort to accomplish.

The utter absence of any control by the Medical Bureau, direct or indirect, over the quantity or component parts of the Army ration was also a defect, the result of which was clearly visible in the sickness which occurred in the early part of the war, among the new recruits, in consequence of the food provided for them being unsuited in its character, and not composed of a sufficient variety of articles.

These were some of the more obvious evils of the system which existed at the commencement of the rebellion, evils which soon made themselves felt in the confusion, embarrassment, and inefficiency of the whole service of caring for the sick and wounded. These evils were apparent to any one who took the trouble to examine into the practical workings of the system. They became more and more painfully impressed upon the Sanitary Commission every day, for scarcely a day passed in which some shocking instance of inhumanity and neglect was not brought to its notice, which was fairly attributable to them. It was determined that its duty could only be properly performed, not by attempting to fix the responsibility of this condition of things on the officials who had been trained under the existing system, but by an effort to uproot the system itself, as wholly worthless for the purpose in view. It was proposed to substitute a new organization founded upon some proper appreciation of the real wants of the case. Representing the popular benevolence of the country toward the Army, and with a full view of all the facts, the Sanitary Commission was satisfied that nothing less than such a complete reorganization would cure the difficulty. It commenced, therefore, a movement to effect it, as we have said, by Congressional legislation.

It asked for certain specific objects in the proposed change. It desired, in the first place, that the principle of promotion by seniority, among the higher officers of the staff, should be abandoned. It wished to see at the head of the bureau a young man of active and vigorous habits and decided character, with professional ability and practical experience, which would enable him to grapple with the difficulties of the situation, who, while introducing all the improvements of modern science in the humane and skillful care of the sick and wounded, would have energy enough to enforce their universal adoption in practice. It urged also that a complete and thorough system of inspection should be established, and that a special corps of inspectors should be appointed, through whose agency the reform of evils should be faithfully carried out. It asked that general hospitals should be erected wherever needed, upon plans recognized as best by universal European experience, and that the construction of these hospitals should be superintended by officers who had some knowledge of the requirements of such buildings, and who would exhibit some zeal and energy in executing the plans. It wished that the transportation service of the sick and wounded should be transferred from the Quartermaster's to the Medical Department, and that an enlarged ambulance system, under the special control of that department, should be created. It was anxious that a large accumulation of medicines and hospital supplies should be constantly maintained in the depots of the medical purveyors, so that the evil consequences, which had arisen from the long delays in furnishing such supplies, should not again occur. It wished also that some arrangements should be made by which men, who were languishing in hospitals from diseases which rendered them incapable of further military service, should be discharged and sent home, and that those who remained under treatment should be provided with hospital clothing and a proper diet.

In bringing this subject before Congress, in order to secure the proper legislation by which the objects we have enumerated should be accomplished, the Sanitary Commission was, as we have said, only the exponent of the anxious desire of the American people, who demanded the best possible care for the suffering of the Army. Its efforts were aided, of course, by the influence of many professional and benevolent men throughout the country, and no less effectually, though perhaps more quietly, by some of the junior members of the medical staff itself, who were perfectly aware of the deficiencies of the system, and welcomed gladly the prospect of the enactment of any law likely to add to the reputation of the corps for efficiency. Reforms as radical as those proposed by the commission make slow progress, even where their necessity is

most obvious. Class interests and vested rights are always respectable things, particularly when they are represented in the persons of those excellent men, excellent in their purity of character and motive, whom the proposed reorganization would displace. It became, therefore, necessary to enlighten the military committees of both houses of Congress upon the absolute necessity of a change, and to base the proposed action upon the broad ground that it was essential to the preservation of the Army.

It was difficult to make Congress understand, in the midst of all its preoccupations, the importance of the subject. Considerations of mere humanity seemed to have but little influence. It was generally admitted that the evils complained of existed, but it was said that their importance and their consequences were exaggerated. To correct these false impressions the commission resolutely set itself to work. After all the usual means of influence with members of Congress had been resorted to, consisting in personal appeals, the earnest recommendation of the project by persons of position throughout the country, visits of influential deputations to Washington, discussions in the newspapers, and the like, the commission was at last rewarded on the 18th of April, 1862, by the passage of a bill entitled "An act to reorganize and increase the efficiency of the Medical Department of the Army."

This bill, although omitting some important features which had been proposed, still substantially created a system for the future operations of the Medical Department, which the commission had striven so long to secure. By this most important law the appointment of the Surgeon-General and of the higher officers of the staff was to be made from the most competent officers of the whole corps, thus ignoring the usage of promotion by seniority. This was a most important step in the right direction, for if the Surgeon-General could be really appointed on the ground of qualification only, as the bill directed, an efficient head of the whole system was secured, and vast progress toward a satisfactory result was made. Eight medical inspectors were also provided for by the bill, and it may be here said in passing, that far larger powers of remedying evils were supposed to have been conferred upon them by it than they ever actually exercised in practice. Provisions were embodied in the bill in reference to the transportation of the sick and wounded, and to the general hospital administration, which experience had shown to be so much needed, and which those who were interested in the subject had striven so long and so wholly in vain to introduce under the old system. The law, of course, presented a mere outline or general sketch of the principles of the reorganization of a Medical Bureau such as Congress desired to establish, for in an administrative service of this kind it is impossible, in a general measure, to provide for all the details which clothe the skeleton, and give life and vigor to the whole body. These details, based upon the general principle of the law, must be the work of him who administers the service, so that on him devolves a task for any practical purpose quite as important as that of the legislature itself. Hence the vast importance of selecting a man as Surgeon-General to set the machinery in motion who was thoroughly imbued with a sense of the value of the principles established by the law, and who would be wholly in earnest in his desire to reduce them to practical application.

The post was one of singular difficulty and embarrassment, and yet of such peculiar honor and distinction, that its attainment naturally became an object of the ambition of some of the ablest men of the medical staff of the Army. The Sanitary Commission, which had watched with so much care and anxiety the progress of the measure which it had proposed to Congress, and could at last congratulate the country on its adoption, felt that its task was only half done until a competent man was selected for the post of Surgeon-General. The qualities essential to an officer occupying such a position had long been the subject of careful inquiry and study, upon which much light had been shed by the daily intercourse of the members of the commission with some of the officials of the old bureau. As has been stated, the removal of the incumbent had been urged upon the government in September, 1861, upon the ground that he lacked the essential requisites for the successful administration of the bureau, even as then organized. Under the reorganization it was necessary to seek for a man who would thoroughly develop in practice its salutary provisions.

Among the officers of the medical staff whose zeal, intelligence, and successful administration of his duties had commanded most thoroughly the confidence and admiration of the inspectors of the commission was Dr. William A. Hammond, at that time an assistant surgeon in the Regular Army. He had been employed since the outbreak of the rebellion in organizing general hospitals at Chambersburg, Hagerstown, Baltimore, and Wheeling, and his appreciation of the wants of such establishments, and the enlarged and liberal spirit, with which he attempted to supply their deficiencies, were so conspicuous, that they could not fail to attract the attention of the inspectors of the commission. These inspectors, who were medical men and fully competent to form a correct judgment on the subject, entertained a very high opinion of Dr. Hammond's administrative capacity. In the reports made by them to the commission, they spoke in unqualified terms of praise of the reforms introduced by him into the hospitals at some of these places, and of the rapidly-improving condition of the patients in

them, as due to the measures adopted by him. In this way Dr. Hammond's name first became known to the members of the commission. He was not only a stranger to all of them, save one, but with that exception his existence even was previously unknown to any one of them. As they were searching in vain among the officers of the medical staff, with whom they had made acquaintance in Washington, for some one whom they could recommend for the post of Surgeon-General, their attention had been thus directed to Dr. Hammond. Upon further inquiry it appeared that Dr. Hammond was comparatively a young man, who had served more than eleven years previous to the war as an assistant surgeon in the Army. He had acquired, while in the service, a very high reputation among his professional brethren in civil life as a man of science, and of great powers of original observation. A reputation of this kind in an officer of the Medical Corps, the period of whose service had been mostly passed in garrisons on the remote frontier, was so unusual that it at once suggested the possession on his part of great force and vitality of intellect, and a capacity for broad and comprehensive views of policy, which the long-continued influence of narrow routine and formalism tends to crush out of le·s gifted minds. It appeared also that Dr. Hammond's reputation was not merely that of a man of science and professional skill, but that his career in the Army had been marked by the faithful and successful performance of his special duties as a medical officer, within the limited sphere in which those duties permitted him to work. He had given to the subject of hospital construction and administration—the great need of the time—more thought and study, probably, than any member of the medical staff. His opinions on this all-important matter had been in a great part formed or modified by a thorough examination of the great military hospitals in different countries of Europe. He was perfectly familiar with foreign military systems, so far as the administration of their medical service was concerned, and such an experience at a time when it was easy to see the defects in the existing system here, but not so easy to suggest the best practical remedy, would prove, of course, of immense value in settling the details of the new organization. In addition to these essential requisites for the position, he had exhibited a zeal and interest in the reputation of the medical staff of the Army, which was esteemed a very important element in forming an estimate of his pretensions as a candidate. At the outbreak of the rebellion he held the office of professor of physiology and anatomy in the University of Maryland, and was besides engaged in lucrative practice as a physician in Baltimore. Scarcely a year before, he had resigned his position as assistant surgeon to enter upon a wider field of duty, and to prosecute his favorite studies under more congenial auspices. When the war broke out he did not hesitate at once to abandon his professorship and to re-enter the Army at the foot of the list of assistant surgeons. He had been constantly and actively employed ever since, and his great merit had been recognized, as we have said, at a very early period, by the inspectors of the commission. He was, besides, thoroughly impressed with the deficiencies of the existing system, and he cordially agreed with the officers of the commission and other humane men, both as to the nature of the abuses and the necessity of making strenuous efforts to remove them. In the autumn of 1861, the commission had been thoroughly convinced, by the information it had gathered from every quarter, that he was the best man for the place. At that time it urged the removal of the existing head of the bureau, and the appointment of Dr. Hammond as his successor. The failure to secure his appointment at that time, however, gave further opportunity for inquiry, and the evidence became more and more clear that the first impressions as to his peculiar fitness were well founded. These impressions were strongly confirmed by an event which occurred about this time. In their efforts to procure the appointment of a suitable Surgeon-General, the commission did not neglect, as may be supposed, to invoke the intervention of General McClellan, all-powerful at that time. No one knew better than he the defects of the system, and no one was more anxious for reform, and especially for the appointment of a competent officer as head of the bureau. In a conversation with the president of the commission, in which the general expressed his great desire to accomplish so important an object, he took up an Army list, and going over the names of all the members of the medical staff in rotation, discussed with remarkable intelligence the peculiar qualifications of each. To each one subjected to such a scrutiny some objection existed in his opinion which would render his appointment injudicious until toward the foot of the list he came to the name of Dr. Hammond. He said at once: "He is our man. He is the only one of the whole corps who has any just conception of the duties of such a position, and sufficient energy faithfully to perform them." When, therefore, the bill for the reorganization of the Medical Department became a law, the commission felt itself justified on every account in urging upon the President of the United States the appointment of Dr. Hammond as the one fit to be made, if the provisions of the law directing that that officer should be selected on the ground of qualification only were to be regarded. Strange to say, they were met by an influence which sought the appointment of one of the senior surgeons of the staff, a gentleman eminent for his long service in the corps, and well known as a model of kindness and courtesy, not only by the officers of the commission, but by all who had been brought in contact with

him in social and official intercourse during his long residence in Washington. But in this matter the interests involved were too grave to allow the members of the commission to heed considerations like these. The law which they themselves had framed, as well as every humane consideration, prescribed that the only test of a candidate should be his peculiar qualifications for the office.

Mr. Stanton, who had been recently appointed Secretary of War, in order to enlighten his conscience fully upon the pretensions of the respective candidates, and recognizing the part which the commission had taken in establishing the new system, sent to New York for Dr. Van Buren, one of its most active members, and desired him to come to Washington, in order that he might consult him on the subject. In this interview with the Secretary, in pursuance of this invitation, Dr. Van Buren declined to advise him in his individual capacity in regard to the appointment. He told him that the bill just approved was the creation of the Sanitary Commission, which had given the whole subject careful study and attention, and had also thoroughly investigated the claims of all the candidates for the position of Surgeon-General, and could therefore speak with a full knowledge of the subject; that the result of their inquiries pointed to Dr. Hammond as the best man for the place, and that its members therefore urged his appointment, and that his own opinion coincided with theirs.

The commission was much encouraged by this evidence of a disposition on the part of the Secretary to execute the law in its true spirit, so far as the appointment of a Surgeon-General was concerned. Amid the clamor which then prevailed at Washington, urging the selection of different persons, from considerations of personal friendship or partisan influence, it was most grateful to observe that the functionary, with whom the decision in the main rested, was seeking to perform his duty conscientiously, by ascertaining the real value of the pretensions of the candidates. This favorable augury urged the commission to renewed efforts to secure Dr. Hammond's appointment. The result was that numerous petitions were presented to the President of the United States, signed by the most eminent medical men in the country, bearing exalted testimony to Dr. Hammond's fitness, and urging his appointment. These petitions no doubt settled the question, for, as the President remarked, it was impossible to resist the weight of evidence in his favor given by the medical profession of the whole country. The commission of Surgeon-General of the Army was accordingly bestowed upon him on the 25th of April, 1862.

No one probably ever succeeded to a more arduous and embarrassing position. A young man, taken from near the foot of the list, and promoted over the heads of those who numbered almost as many years of service as he did of life, could not expect to find many warm friends or cordial supporters among his former official superiors. This natural result was aggravated by personal controversies which had arisen among the different candidates and their supporters during the canvass for the office. But this was a small matter compared with the work which was to be done. The whole department was to be reorganized on true principles, the capacity of the new incumbent for such a work was to be tested to the utmost, and he was to prove that the extraordinary confidence which had been placed in him by his friends was not ill-founded. The first thing necessary to give efficiency and practical value to his plans was that he should be surrounded by fit agents, who, appreciating his views, would earnestly strive to shape the new policy by them. The bill had provided, as a most essential feature of the plan, for the appointment of an inspector-general and eight medical inspectors, whose business it should be not only to enlighten the head of the bureau as to the actual condition of camps and hospitals, but who should have also power to enforce the adoption of measures ordered for the remedy of abuses. It was provided that these officers should be appointed immediately after the passage of the bill, so that the whole machinery could be put in working order at once. The appointment of these officers was unaccountably delayed. A list of such persons as the Surgeon-General deemed competent for these positions, selected from the regular and volunteer staff, had been presented by him to the Secretary of War. Still no action was taken. Many of the active friends of the measure, apprehensive that it would be shorn of all its efficiency if incompetent men were selected for these most responsible posts, were unceasing in their efforts to cause them to be suitably and speedily filled. The nominations were withheld until a resolution passed the House of Representatives inquiring why they had not been made in accordance with the provisions of the bill. Meanwhile, a rumor became prevalent in Washington that some of these inspectorships were to be given to personal friends and connections of prominent party-leaders in Congress. It seemed after all, to the sorrow and dismay of those who had worked hardest for reform, that the poison of political corruption was to be introduced into a body where it was likely to produce its deadliest effect. At last the nominations were made; many of them were of men wholly untrained for this special work, while that of the inspector-general was one which experience proved was eminently unwise. Of those suggested by the Surgeon-General as proper persons for inspectors, only four were appointed. Thus he was obliged to go to work surrounded by a set of men as confidential advisers in whose

selection he had had almost no share. At the very outset, therefore, were the plans of the Surgeon-General for the improvement of the service crippled by a refusal to provide him with the means which he deemed necessary to carry them into execution.

This controversy unfortunately was the cause, or at least the beginning, of a want of cordiality between the Secretary of War and the head of the Medical Bureau, the effect of which is clearly traceable in every part of the history of Dr. Hammond's administration. Into the merits of this personal controversy it is not the business of the Sanitary Commission to inquire, further than it may be necessary to show the bad effect which it produced upon the interests of the sick and wounded. It will be our duty to point out, as we advance in the history, the manner in which those for whom the nation had demanded the tenderest care suffered from a want of co-operation between the War Department and the Surgeon-General. The interest of the Sanitary Commission in this controversy rests wholly upon public grounds. As a commission, whatever may have been the opinion and action of its individual members, it has refrained from defending Dr. Hammond when his personal integrity or the technical offense of exceeding his authority were in question. *But it does feel itself called upon to vindicate his administration upon the highest grounds, those which rest upon a belief that it was so conducted by him that those who suffered through the casualties of war received a skillful and humane treatment unexampled in military history. This is its duty, not merely because the Medical Bureau was its creation and Dr. Hammond its candidate for the post of Surgeon-General, but because it is convinced that, so far as he was permitted to act freely, he did a work while in that position which will always be regarded by men of science and the friends of humanity as one of the proudest monuments of the civilization of our age and our country.*

* * * * * * *

It must not be supposed that the work of the commission in this particular department constitued the only systematic inspection which the hospitals received. On the contrary, the eight medical inspectors attached to the bureau were constantly employed in making official visits. But when it is remembered that, in addition to the two hundred general hospitals of the Army, these officers were charged with the supervision and the medical and sanitary care of more than eight hundred thousand men in active service, it will be readily perceived that the force was altogether too small to explore properly so wide a field. There were other reasons, to which we have already alluded, for invoking the assistance in this work of the profession outside the Army, and an additional one may be found in the fact that it was important in forming a judgment on disputed points to compare the opinions of those trained in the habits of civil life with those who were naturally more affected in their views by purely military considerations.

Among the improvements suggested by these reports, and afterward adopted, were some of such great practical importance, that some mention must be made of them here. In the first place, large depots of hospital supplies were established by the authorities at great military centers, where they were readily accessible at all times when needed. The former practice had been one utterly unfitting the character of the service, and had caused, in many ways, great inconvenience. When supplies were needed at any point, it had been usual for the proper officer to make a requisition upon the distant purveyor, who, after approving it, sent it to be filled by the still more distant apothecary. The patients, meantime, were obliged to suffer from the delays caused by the state of the market or the difficulties of transportation. The practical advantages of this change of system were felt immediately, and they were further increased soon afterward by the establishment of two large government laboratories, one at New York, the other at Philadelphia, in which, during the remainder of the war, the principal medicines required in the hospitals were prepared. The Medical Bureau was thus rendered wholly independent of mercantile houses, both as to the quality of the articles it dispensed and the regularity of their supply. These laboratories were placed in charge of competent officers, detailed from the medical staff of the Army, and were managed with great skill and fidelity. They saved also to the government the outlay of large sums of money, which would have been required for the purchase of the articles manufactured in them at a far lower cost than the ordinary market-price.

A new and vastly enlarged supply-table, or list of articles which the government would undertake to provide for the inmates of the hospitals, was also issued by order of the Surgeon-General, embracing many things essential to their comfort, for the supply of which the hospital-fund had been hitherto the only and most precarious resource. Hospital clothing also was furnished to the patients under the new *régime*, a provision which, when their condition in respect to personal cleanliness upon their entrance to the hospital is considered, seems an indispensable prerequisite to their proper treatment. But the measures of reform introduced by the Surgeon-General did not cease with his efforts to provide for the material comfort of the patients. The condition of the medical staff excited his most serious attention, and his struggles to maintain a high standard of professional excellence in it were never relaxed for a moment. To effect this important object, he devised most generous and liberal plans,

some of which were adopted, and others failed from a want of co-operation by the War Department. They were all characterized by that comprehensiveness of view which proved his thorough appreciation of the duties of his great office. As a means of securing the most competent men for the medical service of the Army, he reorganized the boards of examination, and insisted upon a higher standard of attainment on the part of the candidate. He established also a new and complete system of hospital reports, which was designed to embody not merely a formal and barren statement of the number of patients in the hospitals, and of those who were discharged or died, but also such facts concerning their condition as would constitute valuable material for a medical and surgical history of the war. The interest and importance of such a history, not merely as a record of what had been done here, but as a valuable contribution to our knowledge of the general laws which govern the health and efficiency of armies are too obvious to need comment. In order further to accomplish this object, he instituted at Washington an Army Medical Museum, in which was collected and arranged a vast number of specimens from the different hospitals illustrating the nature of the peculiar diseases to which soldiers are liable, and the character of the wounds which are inflicted by the new missiles of war. The peculiarity of these wounds has essentially modified one of the most important departments of military surgery, and the specimens thus brought together in the Army Medical Museum, far exceeding in number and variety those of any other collection in the world, have served not only to advance the cause of science and humanity, but have rendered the Museum a just object of national pride. But the great central want of the system, which left unsupplied all the other improvements suggested by the Surgeon-General would have proved of little value, was the want of proper hospital buildings. Fortunately for the completion of the circle of his plans, the necessary co-operation of those officers of the government outside of the Medical Department, who were charged with the erection of hospitals, was at last obtained, and a large number were constructed on a vast scale in different parts of the country according to the pavilion system. The peculiar advantages of this system, and the wonderful results which followed its adoption in the improvement of the sick and wounded of the Army, is a subject belonging properly to the medical history of the war. The best evidence we can give of the success of the experiment is to repeat the statement of the simple fact that the rate of mortality among the inmates of these hospitals was far lower than has been recorded of the military hospitals of any age or country.

The Sanitary Commission, without desiring to share the credit of any of the vast improvements made by the Surgeon-General, does claim not only to have fully sympathized with him in his enlarged and liberal views, but also to have aided him in carrying them out as far as any extra-official co-operation could do. It seems now surprising that any obstacles should have been placed in the way of reforms obviously so much needed. But the truth is that, from various causes, it required the persistent vigor and energy of a most determined man to advance a single step in the right direction, and the Surgeon-General always needed for his encouragement all the support he could get, in the government or out of it. The commission felt that the best practical method of maintaining the health and efficiency of the Army was to secure the proper administration of the military hospitals, and it was only fulfilling the highest object of its mission by zealously co-operating in any plans which sought to accomplish this great object.

Considering the eulogium and panegyric thus passed upon Dr. Hammond by the Sanitary Commission, literally brimming over with the highest praise of which language is capable, pronouncing that the work done by him while filling the post of Surgeon-General "*will always be regarded by men of science and the friends of humanity as one of the proudest monuments of the civilization of our age and our country*," is it strange that your committee should consider the judgment pronounced against Dr. Hammond by the court-martial, to use the mildest term, as utterly anomalous?

But if the proceedings and action of the court-martial which tried Dr. Hammond were anomalous, what must be said of the greater yet better anomaly following? Notwithstanding the judgment pronounced by the court, the displacement of Dr. Hammond from his elevated position, accompanied by the degradation which forbade him to be looked upon as honorable or trustworthy—an edict Cain-like in its severity—the profession of which Dr. Hammond is a member refused, in common with his fellow-citizens, to be bound or affected thereby. They received him, on his relegation to private life, with open arms. The

convict brand put upon him had no terrors for them; and though, for a brief period, no doubt, they were dazed and stupefied at the startling result, they nevertheless have rallied to his support with undivided sentiment, and vie with each other in expressions of sympathy, condolence and confidence.

Review after review has appeared in various medical journals throughout the country, commenting with universal condemnation upon the injustice and cruelty inflicted upon Dr. Hammond. Since he has been a postulant at the present session, leading journals in all sections have embraced the occasion to press the matter upon the favorable consideration of Congress, and it is unquestionably the sentiment of the people that Dr. Hammond is entitled to the relief he seeks. While some of the press commentaries suggest, and it may perhaps be true, that Dr. Hammond, in the over-exercise of professional zeal, did exceed or sought to exceed his official authority, and hence antagonized to a greater or lesser extent with his superiors and inferiors, all acquit him alike of improper intent, and repel every suspicion of corruption or of corrupt motives.

Dr. Hammond, in his argument before the sub-committee, did not seek to cover, hide or shield himself from any blame to which he may have been justly amenable, nor yet to harshly question or impugn the motives of others who had conspired, as he supposed, to persecute him, treating his case from an elevated stand-point of magnanimity. It was quite possible, he admitted, he had not endeavored to avoid certain antagonisms, believing his duty of caring for the sick and wounded to be paramount to all other considerations. It is reasonable, therefore, to infer that men of the positive natures possessed alike by Secretary Stanton and Dr. Hammond, would decline to yield or stand by for each other to pass, when they crossed and crowded upon what they conceived to be the path of mutual duty. When they collided, it was the gage of battle hurled by both—a war of the Titans, a struggle for the mastery. One or the other must have fallen in a conflict of such nature; for there was no middle ground of accommodation between them. Secretary Stanton, in the extraordinary pressure of the times, no doubt became impressed that the displacement of Surgeon-General Hammond would conduce to the benefit of the public service, and, possessing the greater power, accomplished, by means of indirection, the desired result.

But all that has passed, and time has softened the asperities of the hour. After the lapse of fourteen years, and in what he believes to be a propitious moment, Dr. Hammond now ventures to appeal to the more rational judgment of Congress, and craves that he be permitted to go to the President with authority for a review of his case. Under the circumstances, it would seem wise, prudent and beneficent to permit him to go hence to the Chief Magistrate of the republic and present him the record. If, upon inspection of this record, the President shall find no reason to annul and set aside the judgment of the court-martial, then the matter goes for naught, and none but Dr. Hammond is injured. If, on the other hand, the President shall determine that the proceedings ought, in law, equity and conscience, to be set aside and annulled, then, upon so concluding, he is authorized to place Dr. Hammond on the retired list of the Army as Surgeon-General, inscribing his name upon the roll of honor, in companionship with those brave men who have fought their good fight and now rest upon their unstained laurels. No pay, past, present or future, is asked, and hence no expense is entailed upon the government.

Your committee are impressed with the fact that Dr. Hammond's re-

quest is reasonable and modest, so modest, indeed, as to bring him within the application of the ancient maxim, "*qui timide rogat, docet negare.*" But your committee recognize that it is a vindication dearer and more precious to him than untold gold, the priceless treasure of reputation restored and reparation made at the hands of his countrymen.

Let Dr. Hammond, in event he shall satisfy the President of his right thereto, be restored to his family, his friends and his profession, freed from every taint or blemish which has hitherto been inflicted upon him under fortuitous circumstances. His brethren of the medical profession honor his name and fame, and his countrymen look upon him with pride as foremost in the ranks of American scientists, humanitarians and gentlemen. Your committee believe this to be a case wherein the Constitutional prerogative of Congress to redress grievances may be safely, justly and fairly exercised, especially since the President is invested, by the provisions of the bill, with wise discretion. If he find against the merits and equities of the case, then the relief sought must be denied. If he find otherwise and hence favorably, Dr. Hammond will then receive that reparation to which he is entitled, and which avoids, by the terms of the bill, all reflection and humiliation upon any other party concerned.

Your committee deem it proper to call attention to the facts shown by the record, that Dr. Hammond organized and founded the Army Medical Museum, in the city of Washington, an institution universally admitted to be one of the proudest scientific monuments of any age or country. He was also the projector of the government publication known as "The Medical and Surgical History of the Rebellion," a work highly prized and eagerly sought for by the medical profession of all countries. It appears, on the testimony of the Rev. Henry W. Bellows, president of the United States Sanitary Commission, that the Ambulance Corps of the Army, which performed such remarkable service during the late rebellion, originated with Dr. Hammond, although it was not adopted until after Dr. Hammond's displacement. In a letter from the Rev. Mr. Bellows to the Hon. Henry Wilson, then chairman of the United States Senate Committee on Military Affairs, dated New York, February 26, 1863, the reverend gentleman earnestly bespeaks Senator Wilson's good offices on behalf of the passage of the ambulance bill, originally prepared by Surgeon-General Hammond, and which he fears may be lost in the Senate by reason of certain antagonisms. In praising his efforts, the Rev. Mr. Bellows concludes:

"The Surgeon-General has brought order out of chaos in his department and efficiency out of imbecility. The sick and wounded owe a hundred times over more to the government and the Medical Department than to all the outside influences and benevolence of the country combined, including the Sanitary Commission. *The Surgeon-General* (Hammond) *is the best friend the soldier has in this country*, because he wields the benevolence of the United States Government. For God's sake, don't thwart his zeal and wisdom!"

In view of all the facts and circumstances, your committee feel warranted in recommending the passage of the bill.

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45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 103.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 19, 1878.—Ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 771.]

The Committee on Claims, to whom was referred the petition of Ebenezer Walker, late postmaster at Okemos, Ingham County, Michigan, asking for relief, submit the following report:

It appears from the affidavit of Ebenezer Walker, which is supported by the written statement of several merchants and business men of the place, that on the night of June 20, 1877, the post-office was broken open and robbed by persons unknown of $78.90 in postage-stamps. It also appears that on the same night five stores of private citizens were entered and robbed.

Mr. Walker had been postmaster for sixteen years and kept the post-office during that time at the same place. Mr. Walker, evidently, is a man of good character, and all the evidence goes to show that the loss was not the result of any negligence on his part or that he was in any way to blame.

In reply to a letter, directed to the Postmaster-General, asking for information on the subject, he says, through the Third Assistant Postmaster-General, that the sum of "$78.90 is shown by an estimate made in this office to be not unreasonable."

Your committee recommend that the sum of $78.90 be paid said Walker, and hereby report a bill for that purpose and recommend its passage.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 104.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 19, 1878.—Ordered to be printed.

Mr. SPENCER, from the Committee on Military Affairs, submitted the following

REPORT:

The Committee on Military Affairs, to whom was referred resolution of the Senate instructing the committee to inquire and report whether, since July 28, 1866, any person has been appointed to any position in the Army contrary to provisions of section 28, act of that date, or contrary to section 1218, Revised Statutes, respectfully report, that the Secretary of War was addressed by the chairman respecting the information required by said resolution, and that officer has submitted the following reply:

WAR DEPARTMENT,
Washington City, February 16, 1878.

SIR: Acknowledging the receipt of your letter of the 30th ultimo, transmitting a copy of Senate resolution dated January 29 last, directing the Committee on Military Affairs, United States Senate, to inquire and report whether any person has been appointed to any position in the Army since July 28, 1866, contrary to the provisions of the 28th section of the act of that date relating to the Army, or contrary to section 1218 of the Revised Statutes, I have the honor to inform you that it appears from the official records that since July 20, 1866, three persons have been appointed to the Army who had been in the military service of the so-called Confederate States, viz:

J. DeB. W. Gardiner, appointed assistant surgeon, United States Army, June 26, 1875;

William B. Davis, appointed assistant surgeon, United States Army, January 9, 1877; and

Theodore Mosher, jr., appointed second lieutenant, Twenty-second Infantry, April 19, 1877.

The department was not in possession of any information showing that either of the first two applicants—Assistant Surgeons Gardiner and Davis—served in the Confederate army, or in any capacity, under the so-called Confederate States, until, in the case of Assistant Surgeon Gardiner, on the 25th August, 1875, and in the case of Assistant Surgeon Davis, on January 21, 1877.

The appointment of Lieutenant Mosher was made under authority conferred by an act of Congress approved March 3, 1877. (Stats. at Large, v. 19, ch. 115, p. 395.)

The fact of Assistant Surgeon Davis having been in the Confederate service was overlooked, for the reason that, when appointed to the Army, he was a surgeon in the Navy; and in the only other case, that of Assistant Surgeon Gardiner, the fact was also overlooked for the reason that he was serving as a contract-surgeon in the Army. These two appointments were made during the preceding administration, while that of Lieutenant Mosher was made during the present administration.

Very respectfully, your obedient servant,

GEO. W. McCRARY,
Secretary of War.

Hon. GEORGE E. SPENCER,
Chairman Committee on Military Affairs, United States Senate.

Wherefore your committee report the same back to the Senate for such action as may be deemed proper.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 105.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 21, 1878.—Ordered to be printed.

Mr. HAMLIN, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill H. R. 927.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 927) for the relief of James W. Glover, postmaster at Oxford, in the State of New York, having had the same under consideration, respectfully report:

That it was in evidence before the committee that James W. Glover was postmaster at Oxford, N. Y., on the 26th of May, 1877, on the evening of which day the safe, in which he deposited papers and money and other valuables belonging to the government, was blown open and totally destroyed; that there were taken from said safe one registered letter, which was supposed to contain in currency the sum of eight dollars and thirteen cents, postage-stamps of the United States of various denominations to the value of $179.99, and also a few dollars in two, three, and five cent pieces; that such measures have been taken as seemed practicable to trace out the perpetrators of the crime, but so far without success.

There is no allegation or suspicion of fraud on the part of the postmaster, but rather a presumption of considerate care, in purchasing at his own expense, as he did, a safe in which to keep the property of the government. The robbery is clearly proven, the loss and amount of funds fully established, both by the assistant postmaster and the department, and efforts have been made to discover the burglars, but without success.

Wherefore, the committee recommend the passage of the bill without amendment.

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45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 106.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1878.—Ordered to be printed.

Mr. BOOTH, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 195.]

The Committee on Public Lands, to whom was referred the bill (S. 195) to declare certain lands subject to taxation, have had the same under consideration, and submit the following report:

An act of Congress of July 1, 1862 (vol. 12, p. 492, Statutes at Large), granted to the railroad companies therein named five alternate sections per mile on each side of their respective roads.

An amendatory act of July 2, 1864 (vol. 13, p. 358, Statutes at Large), doubled the grant of lands, but required the companies to pay the cost of surveying before receiving patents for the lands.

It has been held by the Supreme Court of the United States that these lands are not subject to taxation until the cost of surveying, selecting, and locating are paid.

The railroad companies under this law, by declining to pay these costs, hold large bodies of their lands free from local taxation, converting what was intended as a burden into a benefit.

The companies can and do mortgage their lands, sell them, and exercise absolute ownership over them, but they are exempt from taxes. In many instances they have sold them with the stipulation that the payment of the cost of survey should be deferred, that the purchaser may hold and improve them without liability for the taxes to which all other similar property is subjected. This bill is designed to remedy this injustice, and the committee recommend its passage with an amendment.

The following table exhibits the amount of lands granted and the amount patented or certified to the respective companies:

Name of road.	Estimated quantity embraced in the grant.	Number of acres certified or patented up to June 30, 1877.
Union Pacific	12,000,000.00	1,857,792.12
Kansas Pacific	6,000,000.00	531,261.71
Central Pacific	9,100,000.00	1,116,757.17
Burlington and Missouri River	2,441,600.00	2,374,090.77
Sioux City and Pacific	60,000.00	40,678.23

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 107.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 26, 1878.—Ordered to be printed.

Mr. SPENCER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 420.]

The Committee on Military Affairs, to whom was referred S. 420, "A bill for the relief of Maj. P. P. G. Hall," have had the same under consideration, and submit the following report:

This is a bill directing the refundment to Maj. P. P. G. Hall, a paymaster in the Army, the sum of $3,141.39, being the amount paid by him into the Treasury, January 15, 1872, in liquidation of a deficiency in his accounts as paymaster, caused by the criminal acts of a clerk named James Thomas, occurring in 1869, and of which said Thomas was duly convicted.

This matter was thoroughly investigated by the committee of the second session of the Forty-fourth Congress, and a favorable report, accompanied by a bill for relief, made to the Senate. (See Report No. 604, second session, Forty-fourth Congress, January 23, 1877.) The bill was not reached before final adjournment of the Forty-fourth Congress, and now comes up by identical bill. Inasmuch as the facts and record are the same as those submitted to the consideration of the committee heretofore, your committee adopt the report of the previous committee, as hereinafter set forth, and recommend passage of the bill.

[Forty-fourth Congress, second session, Senate Report No. 604.]

Mr. SPENCER submitted the following report, to accompany bill S. 1175:

The Committee on Military Affairs, to whom was referred the petition of Maj. Peter P. G. Hall, praying to have refunded certain money he was obliged to pay in consequence of the embezzlement of a clerk, have had the same under consideration, and submit the following report:

The record shows that the petitioner, a paymaster in the Army of the United States, was stationed in the years 1868 and 1869 at Vicksburg and Jackson, in the State of Mississippi, where, in addition to his duties of payments to the officers and soldiers of the Army stationed in the various parts of the military district, and which required him to travel over parts of the States of Mississippi, Louisiana, Tennessee, and Alabama to perform the same, he was also charged with the arduous and responsible payment of what is known as "reconstruction vouchers," the funds of which were separate from those furnished for the payment of the Army.

The additional duty imposed upon the petitioner a vast amount of labor, in the performance of which, in addition to his regular clerk, he was allowed by the proper authorities other clerks, and also enlisted men, from time to time, as occasion required, to the number of fifteen or twenty, for the purpose of assisting in the work of preparing for payment the said reconstruction accounts. Among the number of clerks so employed to meet the exigencies of this extra service was one James Thomas.

The said James Thomas, while thus employed as a clerk, and engaged in the preparation of the vouchers on which said reconstruction accounts were paid, at various times between March 1, 1868, and February 1, 1869, without petitioner's knowledge, fraudulently and feloniously altered a large number of reconstruction vouchers which had been approved and ordered paid by the proper military authorities, so as to largely increase the amount of money due on the same, and raised and altered checks signed by the petitioner for their payment, by means of which felonious practices he obtained the money on said vouchers and checks, and embezzled of the money of the United States the sum of $3,409.62 before he was detected thereof.

During this period the petitioner was engaged in the discharge of his regular duties of paymaster, which necessarily called him frequently away from his headquarters into various parts of the military district where troops were stationed, and he therefore had no knowledge of the frauds committed by said Thomas until they were discovered by the accounting-officers of the Treasury. Upon the discovery of these facts the said Thomas was, at the request of the petitioner, immediately arrested by order of Gen. A. C. Gillem, commanding the military district, and on the 19th of October, 1869, he was arraigned before a general court-martial convened at Jackson, Miss., by order of General Ames, the department commander, charged with the following crimes:

1st. Making claims against the Government of the United States, knowing the same to be fictitious and fraudulent, in violation of the act of Congress of March 2, 1863.

2d. Making and using false vouchers, knowing the same to contain false and fraudulent statements and entries, for the purpose of obtaining the approval of false claims, in violation of the same act.

3d. Knowingly and willfully appropriating to his own use money belonging to the United States, in violation of the same act.

4th. Conduct to the prejudice of good order and discipline.

On the 28th of January, 1870, after a full investigation by the court-martial convened for that purpose, the said Thomas was declared guilty upon all the charges, and sentenced to forfeit to the United States all pay then due or that may become due, to pay a fine of $3,299.01, and to be confined at hard labor for the period of five years; which proceedings were approved by General Ames, and the said Thomas was incarcerated in the penitentiary at Jackson, Miss.

In consequence of this embezzlement, there was found to be due, upon settlement of petitioner's accounts by the proper officers of the government, a deficiency of $3,141.39, which amount was made a charge against him. Thereupon the petitioner was suspended from duty and pay until he should pay over and reimburse to the government the amount of said deficit, a refusal to comply with the same rendering liable to be court-martialed and dismissed the service as a defaulter. Accordingly the petitioner did pay over to the United States the said sum of $3,141.39, the amount of the moneys so embezzled by the said Thomas.

After the said payment and liquidation by said petitioner of the amount so charged against him, he filed, on the 29th of October, 1873, his petition for relief in the Court of Claims, under the act of May 9, 1866, by which said court is invested with jurisdiction to grant relief in cases of this character; and whenever said court shall have ascertained the facts of any such loss to have been without fault or neglect on the part of the officer suffering a loss of the public funds, it is provided by said act that a decree shall be made, setting forth the amount thereof, upon which the proper accounting-officers of the Treasury shall allow to such officer the amount so decreed as a credit in the settlement of his accounts.

On demurrer to the said petition, the Court of Claims held "that petitioner could not recover, for the reason that his liability for the defalcation had been discharged by the payment of the money. The court held that an officer entitled to the relief contemplated by the act must not only *have been*, but must *still be*, held responsible to the government for that which is lost. If the responsibility has been discharged, he is no longer entitled to relief. His account has by his own act been settled and closed, and there is, therefore, no unsettled account upon which a credit decreed by this court could be allowed."

Therefore the petitioner was denied the relief he sought because he had, under the orders of his superiors, previously paid over the deficit charged against him. The record shows that the petitioner had no time to present his case to the Court of Claims previously to the payment of the deficit. Although petitioner made application for delay for the purpose of endeavoring to obtain relief, the record shows such delay was peremptorily refused, and by Special Order No. 189, of the War Department, dated August 4, 1870, which was issued immediately upon settlement of his account by the Second Auditor of the Treasury, the petitioner was ordered to repair without delay for duty in the Department of Texas. It also appears in the record that, by letter of the Adjutant-General of date August 16, 1870, petitioner's request for delay was denied, and the order to proceed at once to Texas was reiterated.

A letter from the then Paymaster-General is in the record, from which it appears that officer, in suspending petitioner, and threatening him with court-martial unless he paid

over the deficit, disclaims all intention of barring petitioner from his legal remedy in the Court of Claims. But, it is proper to remark, the effect of the Paymaster-General's acts was so to debar petitioner, and therefore to force him to seek Congressional relief. Had the exigencies of the public service and the consideration of his superior officers so permitted, there can be no reasonable doubt he would have been relieved by the Court of Claims under the broad and equitable provisions of the act of May 9, 1866, had he not, in obedience to orders, previously paid the amount of the deficit so charged against him.

The Hon. E. B. French, Second Auditor of the Treasury, and the officer charged with the settlement of paymasters' accounts, certifies "that, with the exception of the reconstruction accounts, wherein fraud was alleged to have been committed by a clerk, the petitioner's accounts have been rendered in an acceptable and satisfactory manner, and his payments appear to have been made with care and ability."

Thus far the case presents unquestionable merit, and the remaining point for consideration is, whether the petitioner had exercised proper care and caution and such reasonable prudence as is required of a disbursing-officer. The Secretary of War, being addressed on this subject, submits the following report:

"WAR DEPARTMENT,
"*Washington City, January* 22, 1877.

"SIR: Returning your letter of the 19th instant, requesting information in the matter of defalcation of Maj. P. P. G. Hall, paymaster, United States Army, through his clerk, James Thomas, I have the honor to invite your attention to the report of the Paymaster-General, dated the 20th instant (indorsed on your letter), and accompanying papers.

"Very respectfully, your obedient servant,

"J. D. CAMERON,
"*Secretary of War.*

"Hon. GEORGE E. SPENCER,
"*Of Committee on Military Affairs, United States Senate.*"

"UNITED STATES SENATE CHAMBER,
"*Washington, January* 19, 1877.

"SIR: Referring to the petition of Maj. P. P. G. Hall, paymaster, United States Army, praying to be reimbursed on account of certain defalcations occurring through the criminality of a clerk named James Thomas, while said petitioner was charged with the duties of paying vouchers under the reconstruction act, which petition is now pending before the Senate Committee on Military Affairs, I have the honor to request such information as may be within the province of the War Department to afford, touching the question whether Major Hall exercised, under the attendant circumstances, such care and due diligence as a disbursing-officer as would be reasonably and justly required by the precedents and practice of the Department. As the committee desire to determine this case on Tuesday next, please direct an early reply.

"Very respectfully,

"GEO. E. SPENCER,
"*Of Senate Committee on Military Affairs, Acting Chairman.*

"Hon. J. D. CAMERON,
"*Secretary of War.*"

[Indorsement.]

"Respectfully referred to the Paymaster-General for report.
"By order of the Secretary of War.

"H. T. CROSBY,
"*Chief Clerk.*

"JANUARY 19, 1877."

[Second indorsement.]

"Respectfully returned to the Hon. Secretary of War.

"As these transactions occurred several years before I arrived here, I have to make a statement derived from a variety of sources, mostly from the records of this office. These embezzlements by James Thomas, clerk to Maj. P. P. G. Hall, occurred when he was stationed at Vicksburg, Miss., from September, 1868, to February 1, 1869, from funds on "reconstruction account," deposited with the assistant treasurer at New Orleans. The vouchers were paid by check on that depository, printed as payable to "bearer." It was customary to pay them (after the approval of each voucher by Brigadier-General Ord, commanding the Fourth Military District) by checks to the order of the claimant. Thus the word *bearer* on the check was erased, and the word *order* substituted. It appears that Thomas would write the word *order* on the check by a black-lead pencil when presented to Major Hall, who has the misfortune to be near-sighted, which facilitated the crime of the offender. With a rubber he would erase the pencil-marks, and thus as the check would become payable to bearer he was

able to appropriate the money to his own use. As no complaint of non-payment ever reached this office, Thomas must have first passed to Major Hall a correct voucher, duly countersigned by General Ord, and obtained a correct check to the order of the claimant, which was sent to him. Afterwards he would alter and raise the amount of the voucher, and present a new check for the increased amount; as he performed the duty of preparing the voucher and the check necessary to pay it.

"When these vouchers were critically examined in this office, these alterations became apparent and were disallowed.

"A careful overhauling in this office, and afterward in the office of the Second Auditor, led to a disallowance in this manner amounting to $3,141.39. This amount was made good by Major Hall, being deposited with the United States depositary at San Antonio, Tex.

"I do not doubt that Major Hall, as stated in his report on the subject, of the 19th instant, addressed to this office, was in the habit of comparing carefully the total amount of the voucher with the amount of the check before signing the latter—his near-sightedness, as in case of the check, rendering less obvious to him than to most disbursing-officers the changes and alterations of the vouchers. He had severe work imposed upon him at Vicksburg, being required to make these reconstruction disbursements in addition to his ordinary duty of paying the troops. His disbursements on the latter account, during the five months from September, 1868, to January, 1869, were $185,623.97; on account of reconstruction, $79,445.60.

"The vouchers (true amount) were often small, varying from $10 up to $60, and a few over $100.

"The general reputation of Major Hall for industry, fidelity, and accuracy of his accounts has been very good; and he appears to have made these disbursements at a time when extraordinary labor was imposed upon him.

"I inclose herewith Major Hall's letter of 19th instant, and copy of General Order No. 4, of February 5, 1870, from headquarters, military district, by which it will be seen that James Thomas was tried by a general court-martial, found guilty, and sentenced to five years' imprisonment for the offense, and to pay a fine of $3,299.01.

"I also inclose a statement of Maj. T. F. Barr, judge-advocate of said court-martial, whose duty it was to thoroughly investigate the case, and who expresses an opinion favorable to the present claim of Major Hall.

"BENJ. ALVORD,
"*Paymaster-General, U. S. Army.*

"PAYMASTER-GENERAL'S OFFICE,
"*January* 20, 1877."

"WASHINGTON, D. C., *January* 17, 1877.

"SIR: I am a petitioner to Congress for reimbursement in the matter of the embezzlement of Thomas, my clerk. As you prosecuted this case on behalf of the United States Government, and are conversant with it, will you be so kind as to favor me with your views, based on your knowledge of the case, regarding the manner in which my business was transacted, and if there was the necessary care and diligence exercised on my part.

"Very respectfully, your obedient servant,

"P. P. G. HALL,
"*Paymaster, United States Army.*

"Col. THOMAS F. BARR,
"*Judge-Advocate, U. S. A.*"

[Indorsement.]

"WASHINGTON, *January* 17, 1877.

"Respectfully returned, through the Secretary of War.

"In the spring of 1869 I was ordered by the Secretary of War to proceed to Jackson, Miss., in response to a telegram received from General Ames asking for a judge-advocate to prosecute a case of embezzlement.

"Upon arriving at Jackson, I found that a Mr. Thomas, clerk to Maj. P. P. G. Hall, paymaster, was in the guard-house in Vicksburg, charged with embezzlement of public funds, and that a writ of *habeas corpus* had issued from the United States district court (Judge Hill) for his release.

"I made an investigation of the case, and satisfied myself of the man's guilt, and then made a return to the writ, and argued the case successfully, the petitioner being remanded to military custody. He was subsequently tried by military court for embezzlement of public funds, and sent to the penitentiary for a term of years.

"I could not at the time conceive that Major Hall would be held responsible for the money embezzled by Thomas. With the arduous duties imposed on him in the administration of the reconstruction laws, in addition to his regular official labors, the administration of his office appeared to me commendable in every way.

"That he should have been held pecuniarily responsible for the criminal act of a subordinate has ever appeared to me a great injustice.

"THOMAS F. BARR,
"Judge-Advocate, United States Army."

From these reports it appears that petitioner exercised such reasonable prudence and diligence as could be fairly required under the circumstances, and that the defalcation of Thomas was not owing to any want of care or diligence on the part of the petitioner.

Your committee also believe that where public funds have been lost by disbursing-officers by robbery, accident, or the default of subordinates, without any fault or want of care on their part, it has been customary not to hold such officers liable for the sums thus lost, or, in cases where the money has been paid into the Treasury, as in the case of this memorialist, authorizing the Secretary of the Treasury to refund the same. Believing that this case comes within the principle established by the precedents referred to, your committee report herewith an act for the relief of the memorialist.

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45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 108.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 26, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 287.]

The Committee on Pensions, having had under consideration the bill (S. 287) granting an increase of pension to John C. Hughes, report:

That John C. Hughes enlisted in Company F, Forty-first Regiment Illinois Volunteers, July 27, 1861, and was discharged August 15, 1862, on account of a gunshot-wound in the mouth and lower jaw, received while in line of duty at Fort Donelson, for which he now receives pension at the rate of $4 per month.

He re-enlisted in Company D, Mississippi Marine Brigade, January 5, 1864, and was discharged January 22, 1865.

He alleges that while in the last-named service he contracted rheumatism, which terminated in anchylosis of both knee-joints, rendering him entirely helpless, and totally disabling him from the performance of any manual labor; and that he contracted said disease while removing logs and other obstructions from the Mississippi River during the month of October, 1864.

Capt. Ezra Havens swears that he was captain of the company to which Hughes belonged; that he knew him intimately; and that at the time of his enlistment he was as sound a man in his limbs as there was in the company. The claimant was one of a squad detailed to remove obstructions from the river in October, 1864.

Dr. John S. Hidden, an examining-surgeon of the Pension Bureau, has officially examined Hughes at three several times, and states he finds anchylosis of both knee-joints from rheumatism, both legs flexed at right angles with the thigh, which renders him entirely helpless, and totally disables him from the performance of any manual labor. Disability permanent. Habits temperate.

C. R. Fairchild, a practicing physician, swears that he was the family physician of claimant, and knew him to be a sound and healthy young man prior to his enlistment. Knows that now he is totally helpless and unable to perform manual labor on account of rheumatism.

C. E. Fairchild knew Hughes before his enlistment, and knew him to be a sound and healthy man before his enlistment. Knows him to be a man of good moral character and temperate in his habits. He is a complete cripple, and has not walked a step for twelve years.

Edward Sterling, John H. Peckham, G. W. Johnson, Abraham Kyger, and John ——, who are certified by G. R. Benedict, clerk of the district court of Nemaha County, to be reputable citizens of Nemaha County, swear that they have known the soldier for the last ten years,

and know him to be a helpless cripple, and further swear that he is of good character and temperate habits.

The committee regard the evidence as sufficient to establish the claim, and they therefore recommend the passage of the bill, with an amendment fixing the rate of pension at twenty-four dollars per month, in accordance with the provisions of section 4698 of the Revised Statutes, which establishes said sum as the rate for those who are incapacitated for performing any manual labor, but not so much as to require regular personal aid and attendance.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 109.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 27, 1878.—Ordered to be printed.

Mr. MCMILLAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 819.]

The Committee on Claims, to whom was referred the petition of Mrs. Rosa Vertner Jeffrey, have had the same under consideration, and respectfully report as follows:

The petition, which is verified by the oath of the petitioner, was first presented to Congress on the 15th of December, 1873. The following facts appear from the petition and other evidence submitted therewith.

The petitioner is the wife of Alexander Jeffrey, a Scotch-born subject of the British Crown, now a resident of Lexington, Ky., and the daughter by adoption in early childhood and legatee of Daniel Vertner and Elizabeth Vertner, his wife, both now deceased, and late of Lexington, Ky.

Daniel Vertner died in the month of June, 1861, at Lexington, Ky., and his said wife, Elizabeth Vertner, died in the month of April, A. D. 1872. Daniel Vertner was, in his life-time and at the time of his death, the owner of a valuable mansion-house and stable in Lexington, Ky., and of a valuable library, plate, furniture, and other property in said house, and of two carriages, two horses, harness, and other articles of personal property, of which an inventory is submitted with the papers.

The petition states that at the death of said Daniel Vertner his widow became entitled by devise to a life estate in said mansion and personal property, with remainder over to the petitioner. On the 1st day of January, 1863, the said Elizabeth Vertner executed to the petitioner a written instrument, bearing date that day, by which, for a valuable and good consideration, she assigned, transferred, and set over to the petitioner all her right, title, and interest in the premises hereinbefore mentioned, and in and to the furniture in said house, including library, plate, &c., together with all claim for damages for use and spoliation that might thereafter be claimed or allowed by the United States for injury done in any way to said property, real or personal, caused by the military occupation of said premises.

Soon after the breaking out of the war, in August, 1862, the petitioner, with her husband and children and adopted mother, removed to Rochester, N. Y., where they remained till the close of the war, when they returned to Lexington. When the petitioner left Lexington, in 1862, she and her adopted mother securely closed said mansion-house, and packed and stowed away their books and plate therein.

In 1862, the Confederate general, E. Kirby Smith, while in possession of Lexington, during the invasion and temporary occupation of a portion of Kentucky by the Confederate forces under General Bragg,

took possession of said house and used it for a short time, about six weeks, as his military headquarters, using only one bedstead and one mattress. Such occupation was without the consent and against the will of either the petitioner, her mother or husband, all of whom were residing in the State of New York. No material damage was done to any of said property, real or personal, by such use and occupation by the Confederate general. After a very brief occupation of said house, the Confederate army voluntarily retreated from Kentucky, and the house becoming vacant, the same, together with all the furniture, plate, and other personal property, was rented to one Dr. Major, who took possession of the same as tenant of Mrs. Elizabeth Vertner and the petitioner, and who, according to the terms of the lease, occupied said house and stables and used all said personal property; said lease and such use and occupation by said Dr. Major were terminated by the seizure of said premises by the Federal forces for military headquarters and for the uses of the Army of the Ohio. At the date of the occupation of the same for the purposes stated, October, 1862, all said property, real and personal, was in good condition. It appears from numerous affidavits that the house was a large brick building located in a central portion of the city, in a good neighborhood, was in good repair, and very handsomely finished and furnished. Mr. Vertner was a gentleman of fortune, and lived in excellent style. The house was elaborately furnished with velvet and Brussels carpets; fashionable parlor, dining-room, and bedroom furniture, with two large book-cases with valuable books, handsomely bound. In the language of one witness, "there was everything in the house necessary in the way of furniture for an elegant, luxurious home."

In October, 1862, General Gordon Granger, United States Army, took possession of this house, without the consent of the petitioner or Elizabeth Vertner, or their agent, and established his military headquarters there, and he and his staff occupied the same as their headquarters and residence; and from that date until April, 1865, this house was continually occupied by the United States forces under orders of different commanding generals, always against the wish and remonstrance of petitioner and Mrs. Elizabeth Vertner. That such occupation was successively by Generals Granger, Gillmore, Wilcox, and the staff of General Schofield, commanding the Department of the Ohio, and of General Burbridge, and in pursuance of their military orders severally.

General Q. A. Gillmore says, in his certificate on file in the case:

The house referred to, in Lexington, Ky. (the Vertner house), was taken possession of by General Gordon Granger, and was used by him during a portion of the autumn and winter of 1862-'63 forheadquarters district of Central Kentucky. As successor to General Granger in that command, I occupied the house for a period of about three months, and left it to my successor, General O. B. Wilcox. Considerable damage was done to the buildings and furniture; how much it is impossible for me to estimate with any accuracy. I always considered the owner to be entitled to rent and damages on a fair and liberal basis.

Brevet Maj. Gen. O. B. Wilcox says:

I relieved General Gillmore in command of the district of Central Kentucky on or about the 10th of April, 1863. I found him in possession of the Vertner house as his headquarters, and occupied the same during the period of my command, two months, as my headquarters, not only as offices for myself, staff, and clerks, but myself, aids-de-camp, and some other attachés slept in the building. In other words, the building was used, with its furniture, not only for *public offices*, but as *quarters*. The place was a *great* if not an *indispensable convenience*, as my quarters during those stirring times had to be pitched where business could be transacted day and night. There was much confusion in the State. Military operations were vigorously conducted under my

direction by Carter Saunders, the Ninth Army Corps, and others, against the enemy, both on our front, carrying on a guerrilla warfare, on our left flank, and even within our lines. I am thus particular, but might go still further, to show how invaluable the conveniences of such a mansion as the Vertner house were under the circumstances, for Camp Nelson was being established, and the road to and from East Tennessee was kept open, and at my headquarters necessarily centered a large amount of business. So that the government received full consideration for the use of the premises.

General Wilcox further states:

As to damages, the place had evidently been used pretty hard. The furniture, fixtures, walls, windows, &c., showed the evident marks of having been occupied by soldiers; and all bore the appearance of having been used by generals, clerks, orderlies, and subjected to such wear and tear as the rough usages of war entail. I was careful to avoid and prevent destruction of private property as a rule, but suppose that more or less damage must have happened under my occupation of the premises. On the whole, I think the claim is just for use and damages *necessarily* incurred—*unavoidably*, I might truly say—and of great service to the government.

General S. G. Burbridge states, in his affidavit on file in this case, as follows:

Deponent was appointed as commanding general of the military district of Kentucky by President Lincoln, as a special appointment, early in the year 1864, and soon afterwards deponent removed his headquarters, by order of General U. S. Grant, from Louisville to Lexington, Ky., where he took possession of the house of Mrs. Rosa V. Jeffrey for his headquarters. The house was a large, elegant mansion, with fine stables, and all the necessary appurtenances of a gentleman's residence. Deponent found the premises occupied by part of the staff of General Schofield, then commanding the Department of the Ohio. Deponent found said house had been very badly used and very much damaged, carpets worn out and useless, furniture used up, and all in a dilapidated condition—house, furniture, and surroundings. Deponent found no library there, or books of any kind, and deponent understood that said property, previous to his arrival, had been constantly used as army headquarters. Deponent was relieved of his command, or rather headquarters was established at Louisville, in the spring of 1865, about April, when the premises were abandoned as military headquarters, when deponent says that what remained of the furniture, carpets, &c., in said premises were entirely worthless, and the house itself was left in very bad repair.

Mrs. Eliza B. Woodward states in her affidavit, on file, that she was born in Lexington, Ky., over sixty years ago, and, after stating in reference to the occupation of the house in question by the Federal troops, says:

Deponent further says that during the time the Federal forces occupied the said house, she was in the constant habit of going there on business connected with the hospitals of which she had charge, and saw the elegant satin damask furniture of the parlors used and abused by the occupants; * * * saw books of the library lying about; and she knows that all parts of the house were in use. * * * Deponent further states that the house and furniture were greatly damaged, but she does not feel herself competent to mention the sum of said damages. The house adjoining, not so good a house as that of Mrs. Vertner, has had $20,000 offered for it; this was about the close of the war.

The testimony very clearly establishes the fact that when the military authorities of the United States took possession of these premises in October, 1862, the house being a large one, with many rooms, was in good condition and repair, and very handsomely furnished throughout, and that when it was abandoned, about April, 1865, the house was greatly injured, wholly unfit for a residence, and its furniture, library, and other property almost entirely destroyed or gone; and that all this damage was done while in the possession of and under the control of the United States military authorities.

Your committee find that the possession and occupation of this house by the Federal troops for the time as stated was a very great convenience to our armies.

It satisfactorily appears that Daniel Vertner and Elizabeth Vertner, his wife, during their lives, and the petitioner at all times, were thoroughly loyal to the Government of the United States.

Whatever may have been the effect of the instrument purporting to be an assignment from Elizabeth Vertner to the petitioner, if the property was devised by Daniel Vertner to the petitioner subject only to the life-estate of Elizabeth Vertner, his wife, as stated in the petition, that life-estate is determined by the death of said Elizabeth Vertner in April, 1872. The facts stated in the petition, verified by the petitioner, having been so often accepted as sufficient proof of the devise, it would perhaps be too late now to raise any question as to the sufficiency of the proof upon this point.

Your committee are of opinion, upon this state of facts, that the United States should pay to the petitioner a reasonable compensation for the use and occupation of said premises.

The following order of the assistant adjutant-general of the department is a military estimate of the rent of the premises:

DEPARTMENT OF THE OHIO, ASSISTANT-ADJUTANT GENERAL'S OFFICE,
Lexington, Ky., January 25, 1864.

First Lieut. B. F. HOLMAN,
Acting Assistant Quartermaster and Post Quartermaster, Lexington, Ky.

The commanding general directs that you take the house of Mr. Vertner, now occupied as this office and the office of the judge-advocate of the department, upon your rolls of "buildings hired," at a rent of $1,000 a year, to date from the 6th instant, the date the house was taken possession of for these offices.

Very respectfully, your obedient servant,

W. P. ANDERSON,
Assistant Adjutant-General.

There is no evidence whatever showing that any injury was done to the stables; nor that the military authorities ever took or used the two carriages, nor is there, in the opinion of the committee, any sufficient evidence that the horses were used by the military authorities. The only testimony upon this point is found in the closing words of Mr. Jeffrey's affidavit, as follows:

Deponent further saith that the two horses mentioned in this inventory were purchased by Mrs. Rosa V. Jeffrey for the sum of $800, and were well worth that sum and more when taken by the United States military authorities to draw cannon. One of said horses was reported as having died while used to draw cannon, and the other was returned as broken down and used up, and that it was sold for the sum of $90.

The personal property, furniture, &c., remaining when said premises were abandoned by the military authorities sold at auction for the sum of $550.

The government, under the laws of war, is not liable for injuries which are the result of the unauthorized and reckless acts of the soldiery. The majority of your committee are of opinion that the government is not liable in this instance for any portion of the damages claimed for injury to and destruction of the property of the petitioner.

Your committee find that the petitioner is entitled to the sum of $1,000 per annum for the use and occupation of the premises as they were situated, for the time they were occupied by the government, to wit, two years and six months, making in all $2,500, from which must be deducted the sum of $1,656 received by the petitioner on account thereof, leaving a balance of $844 for the use and occupation of the premises. This sum of $844 should be paid to the petitioner.

Your committee therefore report the accompanying bill, authorizing and directing such payment, and recommend its passage.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 110.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 28, 1878.—Ordered to be printed.

Mr. CHAFFEE, from the Committee on Territories, submitted the following

REPORT:

[To accompany bill S. 144.]

The Committee on Territories, to whom was referred the bill (S. 144) to establish the Territory of Lincoln and provide a temporary government therefor, have had the same under consideration and beg leave to submit the following report, with the accompanying bill as a substitute:

The bill proposes to establish a Territory extending from the forty-third to the forty-ninth degrees of north latitude, and from the twenty-third to the twenty-eighth degrees of longitude west from Washington, forming a parallelogram 300 miles in width from east to west by 360 miles in length from north to south, and containing about 108,000 square miles.

The Territory is formed by taking one degree each in longitude from the Territories of Montana and Wyoming and four degrees from that of Dakota, leaving 129,196 square miles in Montana, 90,943 square miles in Wyoming, and 78,132 square miles in Dakota.

There is included within this region all of what is known as the Black Hills country, and it is because of the wonderful change produced therein by the discovery of gold and the subsequent rapid settlement of that country, that we are now asked to form a new Territory, and to provide for its government. The boundaries have been chosen with reference to symmetry and without materially encroaching on the inhabited regions of neighboring Territories, and while about one-half of the Territory of Dakota is included, yet aside from the Black Hills country and that portion on the Missouri River including the city of Bismarck, where about five thousand people reside, no inhabited part of Dakota is included. The Missouri River meandering through this country an estimated distance of about 500 miles, with its numerous tributaries, among which will be found the Lower Yellowstone, Little Missouri, Heart, Cannon Ball, Grand Moreau, Big Cheyenne, White, and many others, waters a very extensive and fertile country capable of sustaining a large population.

In determining whether this bill should become a law, we ought to consider the present condition of the people inhabiting this country, what will it probably be in the near future, and what is necessary to be done to secure to them the preservation of order, encouragement in the development of the resources of the country, the enactment of laws suitable to their condition, an adequate and due administration thereon as well as all the blessings that flow from a well-organized society. If,

1875, the Black Hills country was an uninhabited wilderness, but gold and silver with other valuable minerals were known to exist therein. In 1876, the Indians ceded to the United States all of their rights thereto; and what was then a vast solitude, seldom visited by savages and never by civilized men, is now the scene of busy life and commendable enterprise. It is estimated that from fifteen to twenty thousand people inhabit this country at the present time; of these, about three-fourths emigrated thither during the year 1877, and doubtless its population will be greatly augmented by immigration during the present year. It contains a voting population as large as Montana, and much larger than Wyoming, Idaho, or Arizona.

Your committee find that over $2,000,000 of gold was produced from the placer-mines in the Black Hills in 1876, and that between $4,000,000 and $5,000,000 was derived from all sources in that country in 1877. Since the beginning of the year 1877 forty-five gold-quartz mills, with a capacity of eight hundred and twenty stamps, and one silver-smelting mill have been erected and are now profitably employed there, and that six other gold-quartz mills, with a capacity of four hundred and five stamps, are in process of erection, and it is confidently estimated by gentlemen who have resided in that country, witnessed its settlement, and the development of its mines, that not less than $10,000,000 of the precious metals will be thrown upon the markets of our country from that locality during the present year; and your committee entertain the opinion from the evidence adduced that the product of the precious metals in that locality will in the near future rival, if it does not exceed, that of our older States and Territories.

As far as explored, the gold region extends a distance of 80 miles from northwest to southeast by from 10 to 20 miles in width from northeast to southwest, and its full extent has not yet been ascertained. New discoveries are of constant occurrence by which the area of its known existence is being enlarged. Within this mineral belt of 80 miles more than three thousand gold-quartz lodes have been discovered, claimed, and recorded, forty of which are furnishing the ore to the forty-five gold-mills now erected and running. More than one hundred have large bodies of ore on the dump ready for milling as soon as mills can be procured, and a large proportion of the remainder are being developed, producing auriferous ore with entirely satisfactory results to the owners. Within this mineral region about three hundred silver-lodes have been discovered, claimed, and recorded, many of which have a good supply of ore for milling purposes. But one silver-mill has been erected; doubtless others will be built during the present season. Coal, iron, copper, and lead have also been found, as well as petroleum and saline springs. There are also within this 80 miles large placer-mines which have heretofore yielded about one-half of the gold product of this country. Along this mineral region more than twenty thriving towns have sprung into existence, where all kinds of business are profitably being carried on. Banks, hotels, stores, and many kinds of manufactories usually found in western cities and towns, are not wanting in the settlements of the Black Hills. Churches and school-houses already exist in considerable number and are being rapidly provided to meet the wants of the population. In short, this region is rapidly becoming the permanent home of a prosperous and enterprising people, whose industries are of a diversified character and who will not be dependent upon the production of the precious metals alone for their sustenance.

It is an extremely well-watered and timbered country, and Prof. Walter P. Jenney, in his report upon the agricultural character, climate,

and resources of the Black Hills, made to the Secretary of the Interior, under date of April 20, 1876, says:

That in this respect the Black Hills are unequaled by any region in the great West. * * * A heavy forest covers a greater portion of this area, the trees growing thickly together and attaining full size, not only on the rich bottom-lands, but on the tops of the level limestone mesas; and the steep, rocky ridges are clothed with pine of good size to their very crests. * * * Often in sinking prospecting-pits along the valleys in search of gold the soil would be found to be a black, peaty loam, from two to three feet in thickness, and frequently in the bottom-lands the soil was four feet in depth, resting on a gravelly subsoil. * * * In the valleys of Spring and Rapid Creeks are extensive bottom-lands, which would be excellent for farming purposes did not the underlying gravel contain gold in quantities sufficient to cause it to be mined out in the next few years, to the ruin or serious detriment of the land. * * * Cavalry officers, herders, scouts, and miners all were united in their praise of the grazing. "California Joe," an experienced miner and scout, said of the valley of Spring Creek, "There's gold from the grass-roots down, but there's more gold from the grass-roots up"; and no matter how rich the gold-placers in the Black Hills may prove to be, the great business in this region in the future will be stock-raising and dairy-farming. * * * The Norway pine, black and white spruce, oak, elm, aspen, birch, ash, and other trees are found in the hills, and we are told that it was because of the density of the forest that they received the name of the Black Hills, by which they are known in the Indian dialect.

As a winter-grazing country that region surrounding the Black Hills and extending northwardly to the Missouri and Yellowstone Rivers is most excellent, the grasses are of the same character as those found in New Mexico, Colorado, and Wyoming, and retain their nutritive qualities as well in winter as during the summer months.

Referring to the map, it will be seen that this country is isolated from all other settlements of civilized men; that a broad tract of land known as the Sioux Indian reservation separates it from the white settlements in Southeastern Dakota; that the present and usually-traveled route from Deadwood to Yankton, the capital of Dakota, is via either Cheyenne or Sidney on the Union Pacific Railroad, thence to Omaha, and from the last-named place up the Missouri River; a distance necessary to be traveled of between 900 and 1,000 miles.

It will also be observed that the people residing at and in the vicinity of Bismarck, to enable them to visit the capital during the close of navigation on the Missouri River (which is about one-half of the time), have to travel eastward to Fargo and Saint Paul, in Minnesota, thence to Sioux City, Iowa, and up the Missouri River Valley to Yankton, a distance of between 800 and 900 miles. Visits to the executive, legislative, and judicial departments of the Territory can only be made at great expense and loss of valuable time. At least, ten days is required for an exchange of correspondence between the capital and the Black Hills. This is a cause of loss and great inconvenience to the people living in the latter locality, they being compelled to communicate with the officers of the Territory in the transaction of many kinds of business.

It is necessary to seek the surveyor-general in making final surveys of mining claims preparatory to obtaining patents thereto from the United States.

It is necessary to communicate with the secretary of the Territory in order to perfect an incorporation under the general statute of the Territory and for other purposes.

It is necessary that the executive should at all times be reasonably accessible, in order that he may be consulted on subjects involving the welfare and prosperity of the people.

All litigants who may choose to appeal from the decisions of the district court to the supreme court of the Territory must necessarily, in person or by attorney, visit Yankton to attend its sessions.

Members of the legislative assembly from this country attend the sessions in Yankton at an expense to the general government for mileage of about $200 each.

A large number of lawsuits are now pending in the courts, involving questions of grave importance and interests of great pecuniary value, and it is impossible for one judge to try and determine all the criminal and civil causes now pending and that will come before the courts in a raasonable time; consequently; there must be great damage done to litigants as well as embarrassing delay in the settlement of disputed mining claims.

It will be remembered that within the Territories no officer is empowered to exercise the duties of a chancellor except the chief and associate justices of the supreme court; hence, during the absence of the associate, and while he is necessarily in Yankton attending the sessions of the supreme court, no person authorized to grant an injunction or any of the provisional remedies authorized by the statute, or to hear motions to dissolve or modify the same, is to be found in the Black Hills, and great inconvenience and injury must be sustained by litigants from this cause.

It has been the practice of the government from its earliest history to organize temporary governments whenever a community of our citizens push out into the frontier in sufficient numbers to justify it and develop sufficient interest to require it. The additional expense to the government under the present system is trifling compared to the benefits of local government to a large number of our citizens who inhabit these Territories. The additional wealth added to the nation overbalances the cost of such governments, and in this instance the character of the country and the magnitude of its mining interest, as well as the prospective agricultural interest and the imperative necessity of the situation arising from the great distance from its present capital, justify an independent organization, as provided by this bill.

C

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 111.

IN THE SENATE OF THE UNITED STATES.

MARCH 4, 1878.—Ordered to be printed.

Mr. THURMAN, from the Committee on the Judiciary, submitted the following

REPORT:

[To accompany bill S. 15.]

The Committee on the Judiciary, to whom was referred Senate bill No. 15, entitled "A bill to alter and amend the act entitled 'An act to aid in the construction of a railroad and telegraph-line from the Missouri River to the Pacific Ocean, and to secure to the government the use of the same for postal, military, and other purposes,' approved July first, eighteen hundred and sixty-two, and also to alter and amend the act of Congress approved July second, eighteen hundred and sixty-four, in amendment of said first named act," report the same back with an amendment to strike out all after the enacting clause and insert a substitute for the matter stricken out, and also to strike out the preamble to the bill and insert a substitute therefor.

And now, in support of their views, your committee present the following statement of facts, and their reasons for recommending the adoption of said substitutes.

Union Pacific.

Capital stock, all paid	$36,762,300 00
Government loan, principal	$27,236,512 00
Interest paid by government on above	15,969,801 45
	43,206,313 45
Interest repaid government by half transportation account, and covered into the Treasury	5,134,327 84
Balance due government January 31, 1878, exclusive of its claim for interest upon the interest it has paid	38,071,985 61
But the company claims further credits that have not been allowed and some of which are in litigation, to wit: 1,299,652+1,600,000=	2,899,652 00
Leaving	35,172,333 61

as the indebtedness to the government, should said further credits be allowed, exclusive of the government's claim for interest upon interest above mentioned.

As to the foregoing see—

Report of Secretary of Interior for 1877, Forty-fifth Congress, second session, Ex. Doc. 1, part 5, vol. 1, pp. xxiv, xxv, xxvii, xxix, xxx.

Public debt statement for January, 1878.

The interest (payable in semi-annual installments) which the government pays annually upon its loan to the company—6 per cent. on $27,236,512—is $1,634,190.72.

The first mortgage of the company, and whose lien is prior to that of the government, is for about the same amount as the government loan, and bears the same rate of interest. The annual interest on it is, therefore, about $1,634,190.72. It is stated by the government directors (see report, *ante*, p. 828) as $1,633,920.

The total funded indebtedness of the company June 30, 1877 (see Secretary's report, *ante*, xxv), was $78,733,712.

The items of this indebtedness (see manuscript report of the company to the Secretary for 1877) were as follows:

First-mortgage bonds	$27,232,000
Sinking-fund mortgage bonds	14,188,000
Income bonds	1,000
Land-grant bonds	7,374,000
Omaha bridge bonds	2,225,000
Certificates for bonds	477,200
United States bonds loaned	27,236,512
Total funded debt, including government loan	78,733,712

The nature of this indebtedness is more fully shown by the report of the government directors for 1876 (pamphlet 17), as follows:

Statement of the funded debt of the company June 30, 1876.

Name of bonds.	Amount issued.	Amount redeemed.	Amount outstanding.	Rate of interest.	Coupons payable.
First mortgage	$27,237,000	$5,000	$27,232,000	6 per cent, gold	January and July.
Sinking fund	14,470,000	144,000	14,326,000	8 per cent., currency	March & September.
Income	9,355,000	9,345,000	10,000	10 per cent., currency	Last coupon Sept., '74.
Land-grant	10,400,000	2,889,000	7,511,000	7 per cent., currency	April and October.
Omaha bridge	2,500,000	221,000	2,279,000	8 per cent., gold	Do.
Total outstanding			51,358,000		
United States for 6 per ct. currency bonds			27,236,512		
Grand total			78,594,512		

"The *floating* debt of the company on August 28, 1876, was $740,153. This includes $82,703.20 of outstanding overdue coupons. Against this the company holds, sinking funds bonds, amount owned by the company June 30, 1876, $1,530,000; United States, amount due the company for one-half approved accounts for transportation June 30, 1876, $1,252,505.92, and interests in several railroads in Colorado and Utah more or less directly connected with its line."

In considering the question of the ability of the company to comply with the requirements of the pending bill, as proposed to be amended, the floating debt of the company may be laid out of view, as it is very small, less than $1,000,000, and the available assets of the company are more than sufficient to extinguish it at any moment. The land-grant bonds may also be laid out of view, for the land-grant is sufficient not only to pay the current interest upon them, but also the principal when due, and leave a large surplus to be applied to the other indebtedness of the company. The land grant was about 12,000,000 acres. (See Report No. 440, H. of R., 44th Cong., 1st sess., page 3, note 15.)

And see Report of Government Directors for 1877 (Report of Secretary of the Interior, ante, p. 821), who say:

"The land granted to the company is mortgaged to secure the payment of the land-grant bonds. Number of acres sold, 1,341,779.30; amount due company on contracts, $3,049,134.53. Principal received, $2,618,293.71; interest, $442,681.79; total, $3,060,775.50. Acres sold during last year, 67,971.53; average price per acre, $2.92.

"In view of the grasshopper scourge which has afflicted Nebraska for several years

past, the number of acres of land sold by the company during the last year is a gratifying surprise, and now that the scourge seems to have passed away, and immigration is again pouring into the State the sales in the future must increase rapidly.

The amount of land-grant bonds originally issued was	$10,400,000 00
Amount outstanding June 30, 1877	7,374,000 00
Amount retired from sales of land	3,026,000 00

"Undoubtedly the land grant will retire the land-grant bonds, and leave a large surplus over for the extinguishment of other indebtedness of the company."

RECEIPTS AND OPERATING EXPENSES.

The gross receipts and operating expenses of the company for the last four years were as follows:

For the year ending—	No. of report.	Gross receipts.	Operating expenses.	Net receipts.
June 30, 1874	23	$10,246,760 16	$5,089,789 17	$5,156,970 99
June 30, 1875	18	11,522,021 54	5,373,655 87	6,048,365 67
June 30, 1876	11	12,113,990 69	5,447,819 27	6,666,171 42
June 30, 1877	825	13,719,343 82	5,402,252 24	8,317,091 58
				26,188,599 66
Average annual net receipts				6,547,149 91

The Attorney-General insists that, in ascertaining the 5 per cent. of net profits to which the government is entitled under the charter, nothing but the operating expenses are to be deducted from the gross receipts of the company. On the other hand, the company contends that net earnings are whatever it has left after payment of all its just and lawful obligations, and in support of this position cites St. John *vs.* The Erie Railway Company (22 Wall.). That case merely decides that as between a preferred stockholder, entitled to dividends out of net earnings, and the creditors of a company, there are no net earnings until the creditors are paid, it being a familiar principle that the shareholders of a company cannot lawfully divide its assets or profits among themselves, and thereby leave its creditors unpaid.

But the question in this case is different, and depends upon the charter of the company which is as binding upon its creditors as upon its shareholders, and if that entitles the government, as a preferred creditor, to 5 per cent. upon the gross receipts less the operating expenses, neither shareholders nor other creditors have a right to complain. The right to the 5 per cent. is given by the 6th section of the act of 1862, and, reading that section in connection with the 18th section, we are not prepared to admit the claim of the company. But whatever may be the true interpretation of these sections, we are of the opinion that, under its reserved right to alter, amend, or repeal, it is competent for Congress to define, for the future at least, what shall be deemed to be net earnings. And, in view of the rights of the first-mortgage bondholders, and as a fair adjustment of the conflicting claims of the government and the company, we think it would be right to deduct, in future, not merely the operating expenses, but also the interest on the first mortgage; and the amendment we report is to that effect. As to the past, we leave the question upon the law as it now stands to the decision of the Supreme Court in the case pending before it.

THE FIVE PER CENT. IN THE FUTURE.

We have seen that, for the four last years, the average annual net income of the company, deducting operating expenses alone from its gross receipts, has been $6,547,149.91. We think that this income will be largely increased in the future by the increasing business of the company, the sales of its lands, and its immense coal-mines. In reference to these mines the Report of the Directors to the Stockholders for 1874, says:

"The Union Pacific Railroad Company own, in Wyoming Territory, an area of coal-fields greater than the entire anthracite-coal fields of the State of Pennsylvania.

"The coal-fields of the company extend along *four hundred miles* of the road, and five million acres of its lands are within the Coal-Measures. The coal is superior for ordinary fuel, and unequaled for making steam, and for all manufacturing purposes,

"It will furnish cheap fuel to the company for its own traffic, and will afford large additional revenues from the sale and transportation of coal for domestic and manufacturing uses, to supply the country extending for nearly two thousand miles—from Omaha to the Pacific coast."

But if we assume that the net earnings of the future will not exceed those of the last four years, and deduct from the average annual earnings of those years, to wit, $6,547,149.91, the annual interest on the first mortgage, namely, $1,633,920, we will have $4,913,229.91 as annual net earnings, 5 per cent. on which would be $245,661, which we think is the very least sum that the government would probably receive annually from this source should the bill we report become a law. Whatever it may be, it will, under the provisions of now existing law, be applicable immediately upon its receipt toward repayment of the interest paid or to be paid by the government on its loan, and this right ought not to be surrendered.

THE GOVERNMENT TRANSPORTATION ACCOUNT.

By the sixth section of the charter, as amended by section 5 of the act of 1864, one-half of the compensation to which the company may become entitled for services rendered by it for the government is immediately applicable to the payment of the interest and principal of the bonds issued by the government in aid of the company; that is, the government loan. This right of immediate application reimburses the government, *pro tanto*, the interest paid and to be paid on said bonds, and ought not to be surrendered. The aggregate of the whole transportation account for the years 1871 to 1876, inclusive, six years, as stated in the report of the directors to the stockholders for 1876, was $5,055,742.54, an annual average of $842,623.75, one-half of which is $421,311.87.

We think it will not be less in the future. It has been argued before us that owing to the removal of the Indians to the Missouri River it will probably decrease; but, taking all circumstances into view, especially the immense increase that is likely to occur in the mail-service, as population shall increase in the West, it is our opinion that the future annual earnings will exceed those of the past.

From the foregoing data, it is obvious that the company can pay its interest upon all its obligations, and the sums payable by it annually under the law as it now exists, and allow the government to pay the other one-half of the transportation account into the proposed sinking-fund, and can annually pay into the same the further sum of $850,000, and have a surplus left sufficient to pay a dividend annually to its stockholders of 4½ per cent. on the nominal, or 6½ per cent. on the present market-value of their stock. This is shown in detail by the following

table, which includes the entire indebtedness of the company on which it pays interest annually or semi-annually, except its land-grant bonds, which are omitted because the proceeds of the land-grant more than provides for them, as before stated. The small floating debt—less than a million—is also omitted because the company has assets with which to pay it at any time.

Average annual gross receipts, less operating expenses, as *ante*		$6,547,149 91
Deduct interest on first mortgage	$1,633,920 00	
Five per cent. on net earnings, payable to government under existing law, say	245,661 00	
One-half transportation, payable to government under existing law, say	4 1,311 87	
Interest on company's sinking-fund bonds, 8 per cent. on $14,326,000	1,146,080 00	
Interest on income-bonds, 10 per cent. on $10,000	1,000 00	
Interest on Omaha bridge bonds, 8 per cent. on $2,279,000	182,320 00	
One-half transportation account to be paid into the sinking-fund as per bill	421,311 87	
Further sum to be paid to same as per bill	850,000 00	
		4,901,604 74
Leaving for dividends among stockholders		1,645,545 17

Being about 4½ per cent. on the nominal amount of the stock, or 6½ per per cent. on its present market-value.

From the foregoing it will be seen that the amount the company will have to pay annually to the government and the sinking-fund, should the bill we report become a law, will be about as follows:

Five per cent. of net earnings payable under existing law		$245,661 00
One-half transportation-account, payable under existing law		421,311 00
		666,972 00
Into the sinking-fund:		
One-half transportation-account, say	$421,311 00	
Cash	850,000 00	
		1,271,311 00
Total		1,938,283 00

As the annual interest payable by the government is $1,634,190.72, the above sum would provide only $304,092 annually for the payment of the principal of the government loan.

CENTRAL PACIFIC.

"This company embraces, by consolidation (besides the original Central Pacific Company), the Western Pacific, the California and Oregon, the San Francisco, Oakland and Alameda, and the San Joaquin Valley Companies."—Report of Secretary of Interior for 1877, p. xxv.

Three of these roads, the original Central Pacific, the Western Pacific, and the California and Oregon, whose aggregate length is about 1,027 miles, have received subsidies from the government, the last-named in lands. The other roads, whose aggregate length is about 187 miles, have not directly received such subsidies.

It has been suggested that in ascertaining the 5 per cent. of net earnings to which the government is entitled under the charter, the earnings of the non-subsidized roads are not to be taken into account. Such was not the view taken by the company in 1872. In the report of the directors to the stockholders for that year the directors said (page 12):

Since the construction of your road to a junction with the Union Pacific at Ogden, there has been added to it by construction and consolidation 480 miles, viz: Western division, 141 miles; Oregon division, 152 miles; San Joaquin, 146 miles; San José, 18

miles; Alameda, 17 miles; Oakland, 6 miles. All these additions to the main line have proven at once profitable investments, adding to and with themselves increasing the pro-rata earnings and net income of each mile of the whole.

And treating of the "relations of your road to the government" and referring to the additions above mentioned, they said (page 15):

All the additions are consolidated with the main line and are equally with it security to the government for its loan, and these additions are and will ever be more valuable per mile than the greater part of the main line.

This view is, perhaps, in some degree supported by the decision of the Supreme Court in St. John *vs.* The Erie Railway Company hereinbefore cited; but we do not feel called upon to express an opinion upon it. For whether it is correct or whether the earnings of the subsidized roads alone are to be taken into account, the company will be able, without difficulty, to comply with the provisions of the bill herewith reported.

The capital stock of the company paid in is (report of Secretary of Interior for 1877, p. xxv)	$54,275,500 00
The government loan is—	
To Central Pacific	25,885,120 00
To Western Pacific	1,970,560 00
	27,855,680 00
Interest paid by United States to October 31, 1877, on Central Pacific loan, and not reimbursed	12,519,447 11
Interest paid by United States to October 31, 1877, on Western Pacific loan, and not reimbursed	988,891 54
Total, October 31, 1877 (Report of Secretary, *supra*, p. xxix.)	41,364,018 65

This is exclusive of a claim by the government for interest upon the interest it has paid.

The government pays (in semi-annual installments) interest on its subsidy bonds amounting annually to 6 per cent. on $27,885,680= $1,671,340.80.

Under the power conferred by the charter the company has issued first-mortgage bonds, whose lien is paramount to that of the United States to about the same amount, and bearing the same rate of interest.

The funded debt of the company, according to the report of the directors to the stockholders for 1876 (the last report we have been able to obtain), was, on December 31, 1876, as follows:

Funded debt in detail, December 31, 1876.

Character of bonds.	Series.	Date of bonds.	Amount of bonds authorized.	Amount of bonds issued.	When due.	Rate of interest.	Interest payable—	
Convertible mortgage	.....	Dec. 1, 1862	$1,500,000	$1,483,000	Jan. 1, 1883	7 per cent.	January and July	Sinking-fund commencing 1863; $35,000 yearly.
California State aid	.....	July 1, 1864	1,500,000	1,500,000	July 1, 1884	....do	....do	Interest payable by State of California. sinking-fund commencing 1870; $50,000 yearly.
Central Pacific, first mortgage	A	July 1, 1865	3,000,000	2,995,000	July 1, 1895	6 per cent.	....do	A, B, C, D, sinking-fund commencing 1870; $50,000 yearly.
Do	B	July 1, 1866	1,000,000	1,000,000	July 1, 1896	....do	....do	
Do	C	July 1, 1866	1,000,000	1,000,000	July 1, 1896	....do	....do	
Do	D	July 1, 1866	1,390,000	1,383,000	July 1, 1896	....do	....do	
Do	E	Jan. 1, 1867	4,000,000	3,997,000	Jan. 1, 1897	....do	....do	E, F, G, H, I, sinking-fund commencing 1872; $50,000 yearly.
Do	F	Jan. 1, 1868	4,000,000	3,999,000	Jan. 1, 1898	....do	....do	
Do	G	Jan. 1, 1868	4,000,000	3,999,000	Jan. 1, 1898	....do	....do	
Do	H	Jan. 1, 1868	4,000,000	3,999,000	Jan. 1, 1898	....do	....do	
Do	I	Jan. 1, 1868	3,525,000	3,511,000	Jan. 1, 1898	....do	....do	
Western Pacific, old issue	.....	Dec. 1, 1865	.....	112,000	Dec. 1, 1895	....do	June and December	See note.
Western Pacific, first mortgage	A	July 1, 1869	1,970,000	1,858,000	July 1, 1899	....do	January and July	Sinking-fund commencing 1876; $25,000 yearly.
Do	B	July 1, 1869	765,000	765,000	July 1, 1899	....do	....do	
California and Oregon, first mortgage	A	Jan. 1, 1868	6,000,000	6,000,000	Jan. 1, 1888	....do	....do	Sinking-fund commencing 1876; $100,000 yearly.
Central Pacific, California and Oregon division.	B	Jan. 1, 1872	7,200,000	2,000,000	Jan. 1, 1892	....do	....do	Do.
San Francisco, Oakland and Alameda	.....	July 1, 1870	1,500,000	500,000	July 1, 1890	8 per cent.	....do	Sinking-fund commencing 1880; $100,000 yearly.
San Joaquin Valley Railroad	.....	Oct. 1, 1870	6,080,000	6,080,000	Oct. 1, 1900	6 per cent.	April and October	Sinking-fund commencing 1880; $50,000 yearly.
Land-grant	.....	Oct. 1, 1870	10,000,000	9,276,000	Oct. 1, 1890	....do	....do	
			62,430,000	55,457,000				

NOTE.—One hundred and twelve Western Pacific bonds, "A," are reserved by the company unsold, to take up or exchange for the one hundred and twelve bonds of issue of December 1, 1865, still outstanding.

E. H. MILLER, JR., *Secretary.*

The gross earnings of the road, less the operating expenses, for the years 1872 to 1876, both inclusive, as stated in the reports of the directors to the stockholders, were as follows:

1872	$6,952,361 73
1873	7,894,681 46
1874	8,342,898 76
1875	9,177,882 09
1876	9,137,004 73
Total for five years	41,504,828 77
Average annual net receipts	8,300,965 75

If we deduct the interest upon the first-mortgage bonds, as well as the operating expenses, from the gross receipts, the account for said five years would stand as follows:

Gross receipts, less operating expenses	$41,504,828 77
Deduct 5 years' interest on first-mortgage bonds, $1,671,340.80×5	8,356,704 00
Net earnings for 5 years	33,148,124 77
Average annual net earnings	$6,629,624 95

5 per cent. on which is $331,481.

We think that the net earnings of the road in the future will not be less than they were in the five years above named. In our opinion they will be much greater. We may therefore expect that, if the bill we report shall become a law, and it be held that the earnings of the non-subsidized as well as the subsidized portions of the road are to be taken into account (which is, as we understand, one of the questions now in litigation), the 5 per cent. to be paid to the government in the future, and immediately applicable to reimburse the government, will not be less than the sum aforesaid, $331,481 annually. If the earnings of the non-subsidized portions of the road be omitted, it may not exceed $250,000

HALF TRANSPORTATION ACCOUNT.

We think that the half transportation account of this company, in the future, immediately applicable to reimburse the government, may be safely estimated at $200,000 per annum. The account in the past warrants this estimate. It is more probable that this estimate is too low than that it is too high.

Estimating the 5 per cent. of net earnings and half the transportation account, in the future, at $500,000, in round numbers, we propose that the other half of the transportation account, say $200,000, shall be paid into the sinking-fund, and that the company be required to pay into the same the further sum of $1,200,000 annually. This would require an annual payment to the government and sinking-fund, according to the foregoing estimates, about as follows:

5 per cent. of net earnings, payable under existing law, say		$300,000
One-half transportation account, payable under existing law, say		200,000
		500,000
Into the sinking-fund:		
One-half transportation account, say	$200,000	
Cash	1,200,000	
		1,400,000
Total		1,900,000

Being about the same amount that the bill we report requires of the Union Pacific.

That the company can make these payments and have a surplus sufficient for handsome dividends to its shareholders is easily demonstrated from the facts already stated. But the same thing is shown more concisely by its statements of profit and loss in the directors' reports for 1875 and 1876 to the stockholders.

By the report for 1875 it appears that, after paying all expenses and interest, the company paid to its shareholders dividends amounting to 10 per cent. on the nominal amount of their stock; amount paid, $5,427,550, and it had a surplus of $10,305,953 left.

In 1876, after paying all expenses and interest, it paid dividends amounting to 8 per cent. on the nominal amount of the stock; amount paid, $4,342,040, and had a surplus of $10,265,589.27 left. If we take these two years as a guide for the future—and we think that we may safely do so—the annual amount that will be divided among the shareholders, should no sinking-fund be created, will be 9 per cent. on the nominal value of the stock, $4,883,795.

If the bill we report become a law this amount would be diminished by the amount required to be paid into the sinking-fund, say $1,400,000, leaving $3,483,795, after the payment of all expenses and interest, and the payments into the sinking-fund, to be divided among the shareholders, being $6\frac{4}{10}$ per cent. on the nominal value of their stock.

Even were the earnings of the non-subsidized roads omitted—which in our opinion ought not to be done in estimating the ability of the company to comply with the requirements of the bill—it would still be able to divide from $4\frac{1}{2}$ per cent. to 5 per cent. among its stockholders—a dividend that comparatively few roads in the United States are able to make.

On this subject, see report for 1877 of the Secretary of the Interior, pp. xxxi, xxxii, and xxxiii.

OTHER ROADS.

The condition of the Central Branch Union Pacific Railroad Company, the Sioux City and Pacific Railroad Company, and the Kansas Pacific Railroad Company, is so different from that of the Union Pacific and Central Pacific, and there being questions peculiar to each of those three companies, we think it advisable to strike the provisions relating to them out of the bill, with a view to report hereafter a bill or bills adapted to their circumstances and the rights of the government.

THE POWER OF CONGRESS OVER THE SUBJECT.

The bill (S. 15) referred to this committee is the same in its provisions as Senate bill 984, reported by this committee on July 12, 1876. In the report accompanying that bill (44th Cong., 1st Sess., Report No. 459) your committee said:

Your committee entertain no doubt of the power of Congress to pass this bill.

By the eighteenth section of said act of July 1, 1862, it is declared that—

"The better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other purposes, Congress may at any time, having due regard for the rights of said companies named herein, add to, alter, amend, or repeal this act."

It has been said that this is a very limited power to alter or amend the act, and that

the act only authorizes the alteration or amendment in order to promote the construction of the railroad and telegraph line and keeping the same in working order, and to secure to the government at all times (and particularly in time of war) the use and benefits of the same for postal, military, and other purposes. Were this limited interpretation placed on the reservation, it would not, in the opinion of your committee, defeat the bill they report. For, although said roads and telegraph lines have been constructed, yet it is manifest, having reference to their pecuniary condition, that some such measure as that now recommended is necessary in order to keep them in working order and to secure to the government at all times the use and benefits of the same. It needs no argument to prove that insolvent railroad corporations, or corporations in danger of insolvency, cannot be relied upon to furnish the government the benefits contemplated by said act. In view of the liberal aid afforded by the government to said companies, the objects to be attained by the construction of said railroad and telegraph lines, and the general principles of interpretation of corporate grants of power, your committee are of the opinion that the reservation of a right to add to, alter, or amend said act ought to be liberally construed for the public benefit.

But whatever may be thought of the reserved right to alter, amend, or repeal in the act of 1862, it cannot be denied that the right reserved in the amendatory act of July 2, 1864, is as broad as words can make it.

Section 22 of this act is as follows:

"*And be it further enacted*, That Congress may at any time alter, amend, or repeal this act."

It has been argued that this right applies only to the act of 1864, and does not authorize any alteration or amendment of the act of 1862. Were this so, it would not defeat the bill of your committee, for it might well be sustained as an amendment to the act of 1864. But when the circumstances of the case are considered, when it is remembered that nothing had been done toward actual construction of said railroads under the act of 1862 and before the act of 1864, that the grants to the railroad companies named in the first act were greatly enlarged by the latter act, that the roads and telegraph-lines have been constructed under the provisions of the two acts, and that those provisions were almost inseparably interwoven, it seems to your committee that said acts should be considered as *in pari materia*—as constituting for purposes of interpretation but one act, and that, consequently, the power to alter, amend, or repeal, reserved in the act of 1864, which is the last expression of the legislative will, applies to both said acts.

What, then, is the power thus reserved, that is to say, the general power to alter, amend, or repeal the charter?

It was defined by the Supreme Court of the United States in the case of Tomlinson *vs.* Jessup (15 Wallace, p. 458), as follows:

"The power reserved to the State by the law of 1841 authorized any change in the contract as it originally existed, or as subsequently modified, or its entire revocation. The original corporators or subsequent stockholders took their interests with knowledge of the existence of this power, and of the possibility of its exercise at any time in the discretion of the legislature.

"The object of the reservation, and of similar reservations in other charters, is to prevent a grant of corporate rights and privileges in a form which will preclude legislative interference with their exercise, *if the public interest should at any time require such interference. It is a provision intended to preserve to the State control over its contract with the corporators*, which without that provision would be irrepealable, and protected from any measures affecting its obligation."

This decision places the reservation upon its true ground. It gives to the legislature the right to interfere when *the public interests require interference.* It preserves to the State *control over its contract with the corporators*, and the latter, by accepting the charter, *agree in advance that such control shall exist.* No one will deny that if the bill now reported should become a law and be assented to by said railroad corporations, it would thenceforth be binding upon them. But their acceptance of their charter, containing the reservations aforesaid, is an assent beforehand to the bill now proposed, or to any similar measure that Congress in its discretion shall deem necessary for the protection of the government or the creditors of said corporations. (Pa. College cases, 13 Wallace, pp. 213 and 214.) In this latter case the court spoke of the reserved right to alter or amend a charter as a "reservation to the State to make any alterations in the charter which the legislature in its wisdom may deem fit, just, and expedient to enact."

In the case of Sherman *vs.* Smith (1st Black, 593), the Supreme Court of the United States seem to recognize a right in the legislature, when the power to alter or amend a charter is reserved, to add to the liabilities of the stockholders. They said:

"Another view of this question, even assuming that the stipulation of the stockholders in the article of association amounted to a contract, is equally conclusive against the stockholders.

"*According to* the fifteenth section the association was authorized to establish a

bank of discount, deposit, and circulation, upon the terms and conditions, and subject to the liabilities prescribed in this act. It was not competent for the association to organize their bank upon any other terms or conditions, or subject to any other liabilities, than those prescribed in the general charter. Now, the thirty-second section, which reserved to the legislature the power to alter or repeal the act, by necessary construction reserved the power to alter or repeal all or any one of these terms and conditions, or rules of liability, prescribed in the act. The articles of association are dependent upon, and become a part of, the law under which the bank was organized, and subject to alteration and repeal, the same as any other part of the general system."

In Miller *vs.* The State (15 Wallace, p. 498), the Supreme Court said:

"Power to legislate, founded upon such a reservation in a charter to a private corporation, is certainly not without limit, and it may well be admitted that it cannot be exercised to take away or destroy rights acquired by virtue of such charter, and which by a legitimate use of the powers granted have become vested in the corporation, *but it may be safely affirmed that the reserved power may be exercised, and to almost any extent, to carry into effect the original purposes of the grant or to secure the due administration of its affairs so as to protect the rights of its stockholders and of creditors, and for the proper disposition of the assets.*"

In Holyoke *vs.* Lyman (15 Wallace, p. 500) the court held that—

"The provision of the Revised Statutes of Massachusetts, chapter 44, section 23, and General Statutes, chapter 68, section 41, declaring that acts of incorporation shall be subject to amendment, alteration, or repeal at the pleasure of the legislature, reserves to the legislature the authority to make any alteration or amendment of a charter granted subject to it, which will not defeat or substantially impair the object of the grant or any rights vested under it, and which the legislature may deem necessary to secure either that object or other public or private rights."

Many decisions of the State courts might be referred to to the same effect, but it is unnecessary to cite them here. A number of them are cited in Report No. 440 of the Committee on the Judiciary of the House of Representatives at the present session. Your committee would also refer to that report for many important and valuable facts and tables relating to the subject under consideration.

If there was any room for doubt as to the power of Congress when that report was made, it has been completely removed by decisions of the Supreme Court since made in the following cases:

Munn v. *Illinois*, 4 Otto, 113.

C. B. & Q. R. R. Co. v. *Iowa*, ib., 155.

Peik v. *C. & N. W. R. R.*, ib., 164.

C. M. & St. P. R. R. Co. v. *Ackley*, ib., 179.

Winona and St. Peter R. R. Co. v. *Blake*, ib., 180.

Stone v. *Wisconsin*, ib., 181.

Being fully satisfied that Congress, under the reserved right to alter, amend, or repeal the charter of these companies, possesses the right to pass this bill, we do not consider it necessary to say what would be the case were that reservation not in the charter. Had it been omitted, it might still be argued with much force that the power to alter, amend, or repeal legally existed. No State can make a law impairing the obligation of a contract, because that is prohibited by the Federal Constitution.

But there is no such prohibition upon Congress; and as it is a fundamental principle that one Congress cannot limit the constitutional powers of a subsequent Congress, it may be argued that no mere corporate franchise can be granted by one Congress that a subsequent Congress may not alter, amend, or repeal. This is a very different proposition from an assertion that Congress may, at its pleasure, destroy vested rights of property. It may be argued that, except by a bankrupt act, Congress cannot impair the obligation of a contract, for want of a delegation of power to do so. But to impair the obligation of a contract is one thing and to alter, amend, or repeal a corporate franchise granted by Congress is another and a different thing, especially when the corporation is public or quasi public. A railroad corporation is a quasi-public corporation, exercising the right of eminent domain, maintaining and operating a highway and taking tolls, *in virtue* of its quasi-public character.

It is chartered for public purposes, and not mere private gain; and as its existence springs from public considerations, it is subject, perhaps, to control or regulation, or even to a repeal of its charter, when the public interest shall require it, and no constitutional provision stands in the way. But, as we have said, we do not deem it necessary to express a definite opinion upon this point. It is sufficient that in this case the power to alter, amend, or repeal is expressly reserved; and the effect of this reservation is, in the language of the Supreme Court (15 Wallace, 458), "to preserve to the State control over its contract with the corporators."

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 112.

IN THE SENATE OF THE UNITED STATES.

MARCH 4, 1878.—Ordered to be printed.

Mr. HOAR, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill S. 501.]

The Committee on Patents, to whom was referred the bill (S. 501) for the relief of John C. Birdsell, have considered the same, and heard evidence in support thereof, and report that the same ought to pass.

They find the following facts established by the evidence:

First. The invention is one of great public utility. It has cheapened the cost of clover-seed from one to two dollars a bushel, and thereby greatly increased the use of a most valuable method of fertilizing.

Second. The inventor has failed to receive any considerable reward for his invention. He has been compelled during nearly the whole life of his patent to contend with a powerful and wealthy combination, over whom his final victory was achieved by the judgment in his favor of the Supreme Court of the United States, rendered in April, 1874. He has, also, sustained very heavy losses by fire.

Third. The extension of the patent will not, to any great degree, and probably not at all, operate as a tax upon the public. The machine patented is complicated and costly, requiring for its construction expensive works and machinery. It will be afforded to the public more perfectly and as cheaply by the petitioner if, in the necessary expenditure for its construction, he can be secure of the exclusive right to the manufacture.

The bill authorizes the Commissioner to extend the patent only in case he shall find, on hearing, that the said Birdsell, without fault or neglect on his part, has failed to obtain from the use or sale of his invention or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it, and the introduction of it into use, and that it is just and proper, having due regard to the public interests, that the term of the patent should be extended.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 113.

IN THE SENATE OF THE UNITED STATES.

MARCH 4, 1878.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Post Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill S. 659.]

The Committee on Post-Offices and Post-Roads, to which was referred the bill (S. 659) for the relief of Josiah H. Pillsbury, have considered the same, and report:

That said Pillsbury, on the 28th day of June, 1877, was, and yet is, postmaster at Manhattan, Riley County, Kansas; that on the night of that day the post-office at Manhattan was entered by burglars, the safe therein, in which were kept the moneys and stamps of the Post-Office Department, and registered letters, was broken open and robbed of money-order funds, postal funds, and registered letters, containing money to the amount of about $476.96, which amount the postmaster has since made good to the department.

The special agent sent by the Post-Office Department to investigate the matter reports, among other things, as follows:

The post-office is kept in a frame building in the principal business street, and was entered by the robbers through a side window near the back part of the room in which the office is kept. The safe used by the postmaster is one of Hall's patent combination four-tumbler locks, and weighs about 700 pounds, and was entered by means of a sledge-hammer weighing 10¾ pounds. * * * Mr. Pillsbury, the postmaster, is considered by the citizens of Manhattan as a very worthy and careful postmaster, and I am satisfied that he took the same care of the government property that he did of his own.

It also appears that the safe broken open and robbed was furnished by the postmaster at his own expense, and was such an one as the government furnishes to second-class offices.

Mr. Pillsbury, immediately after the robbery, gave notice thereof to the proper officer of the department, and promptly paid over the amount of money stolen.

The post-office at Manhattan is of the third class; the population of the town is about twelve hundred; and it contains two private banks, but no national bank.

In his report the special agent says:

While Mr. Pillsbury took every precaution, under the circumstances, to secure the door and window of said post-office, yet I am of the opinion it was very unsafe to risk $500 in money and valuable letters, not knowing the value of contents, in a safe which was not burglar-proof, in a frame building which was not occupied by any one at night. Mr. Pillsbury being the custodian of public money and government property, and being paid for the care of said money and property, did not show any desire to shirk the responsibility resting upon him, but paid the losses reported herein.

The same report shows that of the amount stolen $288.40 was mc order funds, $155 postal funds in money, and $35.55 contents of r tered letters.

Your committee are of the opinion that, upon these facts, the] master should be reimbursed the amount of money-order funds and amount contained in registered letters, and that he should not be ı bursed the amount of postal funds. They, therefore, propose to an the bill by striking out, in lines 5, 6, and 7, the words "four hun and seventy-six dollars and ninety-six cents, being the amount of] office funds," and inserting in lieu thereof the words "three hun and twenty-three dollars and ninety-five cents"; and recommend the bill, so amended, be passed.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 114.

IN THE SENATE OF THE UNITED STATES.

MARCH 4, 1878.—Ordered to be printed.

Mr. WADLEIGH, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill S. 187.]

The Committee on Patents, to whom was referred the bill (S. 187) for the relief of S. V. Benét, having considered the same, ask leave to make the following report:

A similar bill passed both houses of the Forty-fourth Congress, but failed to be signed through some mistake of the clerks. The Committee on Patents of the House of Representatives at that session made the following report, which is adopted as the report of this committee:

In 1866 General Benét, then of the rank of brevet lieutenant-colonel, United States Army, was in command of the United States arsenal at Frankford, near Philadelphia, Pa., and was charged in his official capacity with the manufacture, for the use of the military service, of metallic cartridges, and while thus employed designed an improvement therein which he believed to be entirely novel and of sufficient importance to justify him in applying for a patent therefor, and April 14, 1866, made such application in the manner prescribed by law.

On the 27th of the same month his application was rejected on the ground that there was no essential novelty in the invention. March 7, 1867, the specifications were amended as the law permitted, and again submitted for re-examination, and was, on the 14th of March, again rejected by the primary examiner for the same reason as before.

General Benét has long been in the Ordnance Department, is now Chief of Ordnance, United States Army, has had great experience and the best opportunities for acquiring information on the subject of the manufacture of cartridges, and with this knowledge, entitling his opinions to some consideration, expresses in his petition the belief "that in the start of the art in this country"—at the time of filing his application—"the importance of what appeared to be but slight alterations of form in his device was scarcely appreciated by practical experts and those skilled in the art, not to mention those by whose theoretical knowledge only the ministerial actions in the Patent Office in respect to his application for a patent were determined, and that therefore his application for a patent was mistakenly rejected," and your committee are not prepared to say that such was not the case.

If petitioner was in fact the inventor of an important and valuable improvement in this art, and has been mistakenly deprived of the honor and benefit of his invention—and on these points there is no doubt—a correct decision may be now obtained, if permitted a re-examination, and to prosecute the appeals allowed by law, which before were not taken. Then assuredly he ought to have the privilege, at least, of making the attempt to have such mistake corrected, unless some valid reason can be urged against it.

If, in consequence of his official position, his relations to the government or the public were such that a patent ought not to be granted; or from his own laches in failing to avail himself of the facilities which the law afforded him to secure a correct determination of his application he is not entitled to consideration; or the granting a patent now, if entitled to one, would work injustice to others, then the relief he is now seeking should not be given.

The fact that he was an officer in the Army will not of itself deprive him of the right

to his invention. The law of Congress enacted in pursuance of the power given in the Constitution to secure to inventors, for a limited time, the exclusive right to their discoveries, provides that any person who has invented or discovered any new and useful art, machine, manufacture, &c., or improvement therein, may, by application in the manner prescribed by law, obtain a patent therefor, except officers and employés in the Patent Office. And this question has been decided by the Supreme Court in the case of the United States *vs.* Burns, (12 Wallace, 246.) Mr. Justice Field uses this language:

"If an officer in the military service, not specially employed to make experiments with a view to suggest improvements in arms, tents, or any other kind of war material, he is entitled to the benefit of it, and to letters patent for the improvement from the United States, equally with every other citizen not engaged in such service; and the government cannot, after the patent is issued, make use of the improvement any more than a private individual without license from the inventor, or making compensation to him."

It is, therefore, settled that an officer of the Army may be entitled to a patent for the invention of an improvement in the materials of war, and even the government liable for its use after patent is granted. But if the officer be assigned to the especial duty of experimenting and making improvements in the particular materials to which his invention relates, then it would seem a somewhat different rule should apply. In such case he is the servant of the government, assigned by its command to do for the good of the service just what he has done, and the government should not, because he has accomplished what he was assigned to do for its benefit, be deprived of that benefit; and this principle is recognized by the petitioner himself. He has offered in his petition to release to the government all right to royalty or compensation for government use of the invention.

But the further question is, Should an invention wrought out under such circumstances inure not only to the government but to the benefit of all individual citizens of the entire country? True he was the servant of the people, educated, perhaps, at their expense; was in their employ, and paid out of their Treasury; but what was the extent of that employment? It was only for governmental purposes. His duty was to make the improvement for the military service; and outside of that the products of his brain and his hands were as much his own property as the fruits of the labor of any other citizen, not in the service of the government, would be his. But if it was all the government's, should we not possess the grace to surrender to him so much of the right as we do not desire to use ourselves? He has well said, in his argument before the committee, he was employed to invent a cartridge for the military service of his own government, not for individuals for sporting purposes, nor for foreign governments or the world at large.

The next inquiry is, Has he reasonable excuse for not prosecuting his application to the court of last resort? When his claim had been rejected the second time by the primary examiner, he might have appealed to the board of examiners-in-chief, thence to the Commissioner, thence to the supreme court of the District of Columbia, and on refusal there filed his bill in equity, had a hearing before a district or circuit court of the United States, and if error was committed, then gone to the Supreme Court. This he failed to attempt to do until too late. At the time of the rejection of his application there was no limitation, as now, by section 4894 of the Revision, that upon failure for two years after any action therein, of which notice was given, to prosecute the application, it should be regarded as abandoned; but cases might be and were sometimes taken up again even eight or ten years after rejection. The rejection was in 1867, when there was no limitation. In 1869 he was ordered from Frankford arsenal to other important duties. July 8, 1870, this law of limitation was enacted, and gave only six months in which to resume the prosecution of rejected claims. In the engrossing cares of his official duties, this did not come under his observation until he undertook to renew the prosecution at the Patent Office, and was informed it was too late In the judgment of the committee, these circumstances do show a reasonable excuse. for failing to prosecute.

The remaining objection which might be urged is this: Several years have expired since the invention and application. The cartridge has been extensively manufactured and gone into quite general use. Should the public now be deprived of the use of that which it has long enjoyed, which it now supposed was public property, free and open alike to all, or pay a license or royalty therefor? If, through his misfortune, occasioned by change of the law, the public has enjoyed for several years, free, for what otherwise it would have had to pay a royalty, and all the present existing rights can be protected, then this can be no valid argument why he should not be permitted, for a limited time in the future, to enjoy some benefits from the fruits of his own invention; and these existing rights are carefully protected by the bill.

Your committee, therefore, submit the accompanying bill and recommend its passage.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 115.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

The Committee on Military Affairs, to whom was referred the petition of Augustus Sprague, praying for the repayment of money expended by him for a substitute in the military service, have considered the same and submit the following report:

The statements of the petitioner may be taken as true for the purposes of this report. They are in substance as follows: In May, 1861, he enlisted in the Second Michigan Volunteers for three years. In October, 1862, he was discharged at Washington, D. C., on surgeon's certificate of disability, and at once entered the employ of the government as nurse in the Army hospital at Washington. While acting in this capacity he was, in 1863, enrolled and drafted into the Army, but exempted from service by order of the Secretary of War, by reason of his disability then existing, growing out of his former service. October 26, 1864, he was again drafted and accepted by the examining surgeon as fit for service; but not caring to serve, he procured a substitute at a cost of seven hundred dollars. Sprague claims that at the time he was last drafted he was still unfit for service by reason of the continuance of his disability, and that if he had had sufficient opportunity he could have made that fact appear to the Secretary of War. He therefore asks to be reimbursed the sum paid for his substitute as aforesaid, with interest from date of payment.

These facts do not seem to create any claim, equitable or otherwise, against the government. All disability for army service is relative. Of the existence of disability in a degree constituting exemption from liability for military service, the government is the sole judge, and the determination of the officers appointed for that purpose is final. The obligation to render military service is not limited to any particular physical condition, but extends to all persons within the jurisdiction of the government, irrespective of any question of strength or weakness.

In practice, the service to be rendered after muster is or may be determined by a daily examination by medical and surgical authority. One goes to the hospital for treatment, another to the hospital for duty as nurse, another to his company for duty as cook or orderly, and still another to the ranks as fit for the active duties then before the force. In times of extreme necessity or peril, examinations are more rigid than when a long period of camp life is apparently before the soldier. In an emergency, even the "hospital brigade" has done efficient and valiant service.

At the time of the *last enrollment* of the petitioner, the need of the

government for soldiers was greater than ever before. It enlisted men who were notoriously disabled from active field-service, and placed them on duty as garrisons of posts, guarding trains, &c. The petitioner might have been as fully competent for nurse in a regimental hospital as in the general hospital at Washington, and the certificate of the surgeon that he was not exempt by reason of physical disability, cuts off any inquiry as to degree of disability, and must be regarded as final. To open up such a question now as is raised by the petition of Mr. Sprague, would really operate to bring before Congress a majority of the cases of draft where substitutes were furnished, seeking similar relief.

The committee therefore recommend that the prayer of the petition be denied, and that they be discharged from further consideration.

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45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 116.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1878.—Ordered to be printed.

Mr. WADLEIGH, from the Committee on Patents, submitted the following

REPORT:

[To accompany bill S. 300.]

The Committee on Patents to whom was referred bill S. 300, ask leave to make the following report:

The committee have given to this bill a long, public hearing, occupying six days, during which arguments were presented upon the whole subject of the patent-law by many gentlemen representing different views and interests, and a large number of written and printed briefs were filed by those who were not personally present; it has been the subject of communications from the honorable Commissioner and honorable Assistant Commissioner of Patents, transmitted by the honorable Secretary of the Interior. Many hundred copies have been distributed among those whose interest or knowledge relating to patents and the patent-law would lead them to point out its defects if it were bad. The committee feel assured, therefore, that they have had laid before them a full and intelligent expression of the judgment of the classes affected by it, the general public as users of inventions specially represented by associations of two of the most important industries, and inventors and owners of patents, and that if it had contained any feature injurious to public interests such feature could not have escaped observation.

In coming to a result, the committee have been impressed with the importance and value of the patent-system in promoting the progress of the useful arts. Those nations which have most excelled in the extent of their manufactures and in the wealth derived from them, which have carried the industrial arts to the highest perfection, are the nations which have possessed and have developed efficient patent-systems. Those regions which exhibit bodies of the most highly skilled and most intelligent workmen are the regions which have been longest and most affected by the educating and stimulating effects of the law reaching the ranks of the actual working classes. The industrial arts have grown as and where the patents have most grown, not only as between different countries, but as between different parts of the same country. In the United States most of the patents were taken out in New England, and most of the manufacturing was done there thirty years ago; to-day the six great Western States take out fifty per cent. more patents than New England, and surpass it in the value of their manufactured products. We have come to be a great manufacturing nation. As long ago as 1870 the yearly product of our manufacturing establishments was nearly twice the value of all our agricultural products, and the wages of the operatives were greater than the labor earnings of all farmers and farm-laborers, including their board. The manufacturing product

and wages exceeded those of agriculture even in the great corn and grain growing States of the West and Northwest, while our exports of industrial products exceed our exports of breadstuffs. That we are equaling and surpassing England in excellence and cheapness, and thus gradually driving her manufactures not only out of our own but out of neutral markets, is shown by the tables of exports and imports of the two countries, and by those facts in the course of trade which come to our daily notice. All this gain has for its essential condition economy of manufacture by means of labor-saving machinery to compensate for the higher wages which prevail, and which it is desirable shall continue to prevail in this country.

Indeed, not only the experience of our own manufacturers and exporters, but the universal testimony of the industrial writers in the English journals and elsewhere, and of our own consuls, set forth in the "commercial intercourse" appendix to the papers relating to foreign relations, transmitted to Congress with the President's message of last year, show that this progress is owing to the improvement in accuracy and quality, as well as the diminution of cost of manufacture due to our improved machinery, and abundant instances of this have been furnished in industries whose development is directly due to recently invented and still patented machinery.

These and many other considerations show that the patent-system is one of the great factors in our industrial progress, and it is significant that the commissioners of foreign nations present at our Centennial Exhibition, struck with our superiority in machinery and mechanical tools, attributed it in large part to the fostering effect of that system. They advised their governments to take steps to create or modify their patent-laws to conform more to ours, the distinctive feature of which is that it is so framed and so administered that its stimulus reaches every workshop. Nearly all of our mechanical inventions are made by workingmen, and thus we have not only acquired a large mass of useful inventions, but have trained the whole body of our workmen to use their brains as well as their hands.

The steam-engine, invented and improved by Watt, the steamboat, belonging to this country, the locomotive engine, invented by Stephenson and improved by his son, were created under the direct and personal stimulus of the patent-law and patented as soon as invented. The labor and expense of Watt and Boulton in perfecting the engine were so great that, when it seemed likely to fall to the ground after Watt had spent all his means and six years of the life of his patent, Parliament extended it long before its expiration in order to induce them to persevere. Watt thought, in 1815, that no further improvement could be added, but since that time the machine has been the subject of innumerable patents, and its efficiency increased between four and five fold, while all the gain he made over the old atmospheric engine of Newcomen was to increase the power rather less than four-fold.

Since Stephenson's time the locomotive has been made the subject of perhaps as many patented improvements, few great in themselves, but in the aggregate increasing its capacity as much as that of the stationary engine has been increased. The associated railroad companies of the West have recently declared that the great reduction which has taken place in the last decade in transportation-charges has been largely due to improvements in machinery and appliances which have been from time to time introduced.

It has been abundantly shown also that the direct effect of the system is to improve the condition of the workman. Statistics from the census

and figures from the books of those engaged in various branches of industry prove that with the introduction of improved machinery the hours of labor have been shortened, and the daily rate of wages raised, while the cost of the product to the consumer has been lessened. The day of the workman has been made more valuable to the community, and represents a larger and more valuable product, and he has consequently and in fact enjoyed more of the comforts and conveniences which the higher value of his labor in proportion to the things he desires has enabled him to acquire. Meantime the demand for labor, as a whole, has increased. Financial depression affects everything to-day, but looking at the community at periods of ten years apart we find that during the period of the great growth in inventions, 1850 to 1870, while our population increased 67 per cent., the workmen employed in manufacturing more than doubled, those employed in steam transportation increased many fold, while in the great grain-raising States, most affected by the introduction of labor-saving agricultural machinery, the farmers and farm-laborers more than doubled. So much does the cheapened product increase the demand and the ability to consume.

The consumer has gained not merely by the diminished cost due to the use of the invention after the expiration of the patent, but by an immediate cheapening, for it has been shown by figures drawn from many branches of industry that the royalties commonly received seldom exceed five per cent. of the actual saving immediately realized; so that, if an invention cheapens the product one dollar, the patentee generally receives five or ten cents of it, and the community at large gains the rest.

The workman finds that by means of his patent, which he can either use or sell, he is enabled to hold his own to a greater or less degree against the capitalist in industrial competition; and, more than all, the protection which the patent gives a patent-owner in the results attained induces him, and is all that will induce him, to expend the time and the money—often several hundred thousand dollars upon a single machine—in perfecting the invention, embodying it in a practically useful machine, and introducing it to public use.

The committee are therefore convinced that the framers of the Constitution were wise in their judgment when, in intrusting to Congress "the power to promote science and useful arts," they gave them only one means for doing it, namely, "securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." No change should be made in the patent law to weaken the inducement which, in its ordinary and normal operation in the common transactions of business, it offers to those who will successfully invent, and to those who, by perseverance and expenditure, will perfect inventions and the machines in which they are embodied, and push their introduction so as to put the public in possession of perfectly working machines or a perfectly finished product.

But it has been proved before the committee that defects exist in some parts of the law which regulate proceedings in the Patent Office; and it has been made abundantly apparent that very considerable evils have shown themselves where the courts are called upon to administer it, or to regulate under it the rights of parties who cannot agree. Some of the causes of complaint can be removed; some can be directly alleviated; some can be counteracted, or the occasions which give rise to them prevented, by the natural operation of other causes set in motion by appropriate legislation. The committee are satisfied that this bill will accomplish these objects, will not go beyond them, and is all that is needed for these purposes. If inconveniences remain to the annoyance of some

persons, it is no more than happens under every law, but the committee are satisfied that no evil that will be suffered under the law, especially with the amendments proposed, would equal the loss from changes which should substantially impair the protection it gives to the exclusive right intended to be enjoyed by the inventor under the Constitution.

There is now no statute of limitations applicable to patent causes, unless it be the act of July 8, 1870, c. 230, § 55, which creates no bar from lapse of time until six years after the expiration of the patent. Section 1 of the bill, relating to this subject, is reported with some amendments.

The period of limitation should be long enough to allow a reasonable time to discover infringements, which often take place in distant States and in establishments not open to the public, and long enough to allow one test case to be carried to judgment, at least in the circuit courts, before the patentee is compelled to multiply suits to preserve his rights; and four years has been fixed upon as the most suitable period.

Section 2, relating to damages and profits in suits for infringement, is also reported with some amendments. By the present law (R. S., 4919) "actual damages" may be recovered by a patentee against one who has infringed the patent, and these are measured so as "to compensate him for the injury sustained by the unlawful violation of the exclusive right secured to him by the patent." (*Birdsall* vs. *Coolidge*, 93 U. S., 68.) The rules which the courts have applied in measuring this have not been found to work any hardship upon defendants, and are not complained of by them; this bill does not change them. The rule of "damages," technically so called, applies equally to the assessment of damages in an action of trespass on the case and in a suit in equity, in which, by the statute of 1870 and R. S. 4921, and under this bill, the court is allowed to award them.

At a very early day courts of equity, acting upon their favorite plan of allowing the plaintiff to waive the tort, and of converting a wrongdoer into a trustee *in invitum*, treated the infringer as a trustee for the plaintiff of all that he had gained by the use of the invention. It was not only a lawful but an extremely just and beneficial exercise of their power. The right of the patentee is almost the only, perhaps the only, right of property which is without the protection of physical force and of the criminal law, and if the infringer could see that the daily profits from his infringement might exceed the direct immediate damages the plaintiff could prove against him according to the strict rules of the common law, an inducement would be held out to him to infringe, and then, by every known artifice, to protract litigation when sued, so as to delay the final injunction which alone would stop his profits from the use of another's property. It is essential, therefore, that all men should know that they cannot be permitted to retain any profits realized by the use of another's patented invention without his consent. But in applying this principle the courts have laid down rules under which they have encountered two serious difficulties.

In the earlier cases (*Livingston* vs. *Woodworth*, 15 How., 559; *Dean* vs. *Mason*, 20 How., 198; *Goodyear* vs. *Prov. Rubber Co.*, 9 Wall, 788) the court decided that the infringer was liable only for his "actual gains and profits," or "ultimate profits," saying in the latter case: "The calculation is to be made as a manufacturer calculates the profits of his business. 'Profit' is the gain made upon any business or investment when both the receipts and payments are taken into account. (*People* vs. *Super. Niag.*, 2 Hill, 23.) The rule is founded in reason and justice; it compensates one party and punishes the other; it makes the wrong-

doer liable for *actual*, not possible gains. The controlling consideration is that he shall not profit by his wrong. A more favorable rule would offer a premium to dishonesty and invite to aggression." To these rules no objection can be made.

But in the later case of *Mowry* vs. *Whitney* (14 Wall., 620) they held that the "profits" consisted in the gain in advantage or in economy between the old method or machine open to the defendant and the new and improved method or machine invented by the patentee. This rule sounds very well, and in that particular case worked justly, for the "ultimate profits" actually realized in that defendant's business of making car-wheels, in one step of which he used the plaintiff's process, exceeded the saving in that step, so that he was not held accountable except for a gain which actually resulted and remained in his hands.

Afterward a case arose in the Supreme Court (*Mevs* vs. *Conover*, 11 Patent Office Gazette, 1111; there are many others in various courts where the rule has been so applied), where a certain economy in the manufacture resulted from the use of the invention, but no "ultimate profit" resulted in the manufacture; yet the court, upon the doctrine of "savings," held the defendant liable for the amount of that economy, though the article made by the patented machine could not be sold for what it cost.

Such an application of the rule involves two practical mistakes: one is that no man can ever be made to understand the justice of compelling him to pay over a large sum as "profits" of a business which, though carefully conducted, has resulted in a loss. The other consists in assuming a practical result in the operation of the patent law which the inevitable laws of trade do not permit to exist. The certain and almost immediate effect of a patented labor-saving invention is that it diminishes the cost of the product to the consumer. If it takes off one dollar from the cost of production, the patentee invariably takes off a considerable sum, say ninety cents, from the selling price, partly in order to absorb all the production by himself or his licensees, partly to increase the use as rapidly as possible during the limited life of his patent. A good many considerations show that this must take place; a very large mass of facts presented by those who appeared in support of this bill shows that this is actually the case, and that, with articles of general use, five to ten per cent. of the saving due to the new process is all that the patentee asks, and the public get the rest. It is obvious therefore that the rule which holds that the profits of the user equal the "savings" is a rule which necessarily, and in almost every case, as a practical matter is glaringly wide of the mark.

The court has felt the injustice which this rule works. In *Packet Co.* vs. *Sickles*, 19 Wall., 611, two years after *Mowry* vs. *Whitney*, they said: "With these corrective powers in the hands of the chancellor, the rule of assuming profits as the ground-work for estimating the compensation due from the infringer to the patentee has produced results calculated to suggest distrust of its universal application even in courts of equity." Subsequent cases have shown that the court has found itself powerless to break away from its own precedents sufficiently to limit the application of the rule. It is therefore necessary for the legislature to do it, and this second section effects it.

The other difficulty which the courts have encountered is that there are many cases where the use of an invention shows itself in increased ease or convenience and not in a money profit. An electric fire-alarm for a city, a safety-switch for a railroad, or an improved car-ventilator, which will cost more to make and repair than the old, but may

add to the safety or comfort of passengers, are instances. The use of these would not bring any direct saving, and would not lead to any profit which could be ascertained by any technical process of accounting. This bill declares that the courts shall not attempt to do what cannot be done successfully, but in such cases shall award a gross sum for damages. And the power given to the court by the clause at line 28 prevents all inconvenience which might arise from a too inflexible statute rule.

It must be remembered that in the cases where no account of profits are allowed, and in the cases where the infringer has so conducted his business that his actual profits do not afford an adequate compensation for the injury done to the patentee, the latter, under the existing law, is entitled to a suitable sum by way of "damages" to bring the recovery up to a proper amount, and this remedy is expressly preserved by the clause added at the end of this second section.

The right to reissue a patent, that is, to amend the specification, is one which, under proper circumstances, with proper safeguards against abuse, ought not to be denied. The patentee is required to describe his invention and state his claims with technical formality. He is not free, even, to choose his own language for this purpose, but must adopt such as is approved by the Commissioner of Patents, or, practically, by the particular examiner before whom his case comes. If it turns out that the specification and claims are defective in form, he ought to be allowed to correct them by making them state in legal language all that he substantially described or indicated as his invention in the papers which he filed among the records of the office before his patent was granted; that is, it should be corrected to make it such a patent as ought to have been granted to him upon the papers on which it was granted. Further than this he ought not to go, and it ought to be left open to the courts to inquire whether he has gone further. The model ought not to be resorted to for a reissue. The original patent cannot be granted on the model, but on the drawings and application, with the amendments filed before the patent is granted; and, although the application may, perhaps, be amended by the model before the patent issues, yet it is only upon such amendments as have actually been made before the patent issues that it can be granted, and the reissue should not go beyond this. The fifth section of this bill, which regulated this subject, was defective in this particular, and it is reported back with suitable amendments.

The right to reissue was first mentioned in the act of July 3, 1832, but that statute was hardly more than declaratory of the long-existing practice which had been sanctioned by the Supreme Court in *Grant* vs. *Raymond*, 6 Peters, 244. In that case the court said that they were "satisfied that it was required by justice and good faith" on the part of the government toward the inventor, and that it was proper "where the defect in the specification arose from inadvertence or mistake and without any fraud or misconduct on the part of the patentee." This language of Chief Justice Marshall was adopted in the statute, and has remained ever since.

The law assumes, and rightly, that the patentee tells the public that they may safely build all machines which do not come within the language of his claim. But if he corrects them by a reissue, it may turn out that a machine, lawfully built, because it did not infringe the claims of any existing patent, may be enjoined, and therefore its whole value destroyed to its owner under a subsequent reissue of a patent in an amended form. (*Stimpson* vs. *West Chester Railroad Company*, 4 How.,

This power of a patentee may enable him to compel a user of a ıine, rather than lose its whole cost, to pay a much larger sum than nvention infringed is worth, and this power is one of the most fruit- ıuses of annoyance from reissues, and of attempted fraud in ob- ng them. Section 6 of the bill deprives reissues of all retroactive ɜr.

ıe inconvenience of the enormous increase in the number of pat- granted is that many of them are for things of inconsiderable ical utility. Such patents are not merely useless; they stand in vay of every future inventor who may wish to make an advan- ɔus use of some little feature which forms an incidental part of . There are really obstructive patents; the thing they describe is ss in itself; they do not disclose an invention which will be so val- ɜ when the practical difficulties of applying it have been overcome lead any one to spend time and money in the endeavor to over- : them; they lie dead and useless, practically abandoned as worth- by their owners. Such patents have no reason for existence, for neither constitute nor create any progress in the useful arts. Some- ; can be done in instituting a better examination when they are ted, but not much, for attempts at the outset to judge of the de- of future usefulness are found by experience to lead to fatal mis- ɜ. The examination must be confined to the question of novelty. ction 11 undertakes to extinguish these worthless patents, by re- ng the payment of a fee of $50 when the patent is about four and ıalf years old, and $100 when it is about nine and one-half years The sums are large enough to make an owner think twice about ıg them for a patent which, after four or nine years' trial, holds out rospect of usefulness, while at the same time they are not too ɔus for patents of any value. The plan is in use in England, and modified form on the continent of Europe, and judging from the rience of those countries will probably extinguish one-half of the ıts granted. It will take hold of just those patents which, useless selves, reappear in the form of reissues and cause those annoyances hich the worthlessness of the invention and not the ability to obtain eissue is really responsible.

e remaining portions of the bill relate to matters of practice and l, and readily explain themselves.

e following is a brief summary of the changes introduced into the ɔy the bill as reported by the committee:

CTION 1. *Limitations.*—The period fixed is four years, to apply to ıits at law or in equity hereafter commenced, with a proviso allow- wo years in which to bring suits on existing causes of action before ɜar applies to them. If many suits are brought to preserve a right, ourts may stay proceedings in all except one.

C. 2. *Profits and damages.*—This preserves the existing rule of dam- ; it changes the accounting in equity from the present rule of "sav- ' alone, by providing that the amount allowed as "profits" shall xceed the profits actually realized in that part of the defendant's ıess connected with the use of the invention. The rule for appor- ıent of the actual profit among the different elements employed, ding capital and personal services, remains unchanged. The court ɔwed a discretion in all cases, both to increase and to diminish the nt found, whereas it is now allowed only to increase, and that ly in an action at law (R. S., 4919). The court is also empowered to counsel-fees and expenses in case of vexatious claims or willful in- ɜment. The committee have made several changes in this section.

SEC. 3. *Appeals.* This is new, and gives to the circuit court the power to allow an appeal to determine the capital questions of validity or infringement before putting the parties to the delay and expense of an accounting, which will become useless if the decision below is reversed.

SEC. 4. *Appeals.* This also is new, and enables the circuit court, subject to the direction of the Supreme Court, to exercise a control over the parties by injunction pending an appeal; in the present state of the Supreme Court docket a cause is not reached until three or four years after the appeal is taken.

SEC. 5. *Reissues.* This has been already explained. It replaces Revised Statutes 4916, and changes it in three respects:

1. It does not allow any evidence of what the invention is, except such as the papers, filed in the office before the original patent issued, afford, whereas the present law, in certain cases, allows evidence *aliunde* by *ex parte* affidavits.

2. It does not allow the model to be resorted to at all for purposes of reissue. This change has been introduced by the committee.

3. It directly makes it the duty of the court to inquire, in suits on a reissued patent, whether it is for anything except the same invention shown, contained, or substantially indicated in the specification or drawings of the original application or its amendments, and which the inventor would then have been entitled to patent.

SEC. 6. [New.] Provides that reissues shall not have a retroactive effect. This has already been explained.

SEC. 7. Provides that if a patent be issued to two on the invention of one, or to one on the invention of two, this mistake may be corrected as a clerical error, by the consent of all inventors and owners.

SEC. 8. Taking testimony *in perpetuam.* The existing law, adopting the English chancery practice, was intended for questions of title relating to real estate, and does not meet the exigencies of patent litigation. The scheme of this section is that anybody may take testimony upon leave of court first obtained and notice to the opposing party in interest; that any person, whether a party to that proceeding or not, may use the evidence, but only as against those who were parties to the original proceeding and actually served with notice, or those claiming under them; that when a petitioner in such a proceeding perpetuates testimony upon any particular topic, the opponent may, by leave of the court, introduce evidence in rebuttal or avoidance, and if any stranger avails himself of one part of this record he thereby makes the whole as competent against him as if he had been a party to the proceeding. This section is entirely new, and has been considerably amended by the committee.

SEC. 9. [New.] Allows suits to be brought, by special leave of court, to repeal and annul patents which are void.

Existing laws afford no adequate remedy. (See Opin. Attorney-General of Nov. 19, 1874, Patent-Office Gazette, vol. 6, p. 723; *Attorney-General* vs. *Rumford Works*, 9 *ib.*, 1062.

SEC. 10. [New.] Supplies a remedy for cases where a person injures the business of another by advertising that it infringes a patent, and yet refuses to bring a suit in which the validity of the patent or the question of infringement can be tried.

SEC. 11. Periodical fees. This is new, and has been already explained.

SEC. 12. The change introduced by this requires exclusive licenses to be recorded in the same manner as technical grants, because, practically, the two are equivalent. It shortens the time allowed for recording assignments from three months to one month; improvements in the

mail service since 1836 justify this. It allows all agreements about patents to be recorded, and makes certified copies from the record to be legal evidence

SEC. 13. The law now is, that each joint owner of a patent may grant licenses without the consent of the other. (*Clum* v. *Brewer*, 2 Curtis, 524.) The object of this amendment is to give full effect to an agreement between them as to which shall exercise this power, if the agreement be in writing, signed by all the parties, and recorded.

SEC. 14. [New.] This punishes, by not exceeding one year's imprisonment or $1,000 fine, whosoever, "with intent to defraud," sell as unincumbered a patent which he actually knows he has no power to sell and convey.

The following sections amend those which regulate proceedings in the Patent Office.

SEC. 15. This requires the Assistant Commissioner of Patents to give the same bond as the Commissioner.

SEC. 16. This establishes the price for Patent Office copies—in no case to be less than actual cost, and the maximum the same as now.

SEC. 17. The old statute allowed certified copies of papers to be used as evidence wherever the originals would be competent. The amendment extends the provision to models, and also allows the Assistant Commissioner to sign the certificate.

SEC. 18. The first sentence conforms to the existing law. The second sentence relates to a matter of convenience and practice in the office, and is new. The proviso is new, and provides that the delay of the office, after the patentee has completed all that he has to do, shall not prejudice his rights.

SEC. 19. The law about granting patents in this country to those who have patented their inventions abroad has been changed several times, particularly by the act of March 2, 1861, in a manner which has caused considerable confusion. This section establishes what is believed to be a just and reasonable rule. It retains the provision that a foreign patent does not prevent a patent here to the same inventor, but that he cannot come here to get a patent for an invention that has been in use here for two years; it adds a new requirement, that if he makes it known, by patenting it abroad, he must apply here within two years, or it can be used by the public. The old law provided that if the inventor patented abroad, his United States patent must expire as soon as the foreign patent; but, if he leaves it unpatented so that foreigners can use the invention freely, he is allowed the whole seventeen years here. This discrimination against our patentees is abolished.

SEC. 20. *Abandonment of applications.*—Struck out and the old law retained.

SEC. 21. *Applications.*—No change as to original applications. Applications for reissues may be signed and sworn to by the owner of the patent or his legal representatives. At one time the surrender of a patent and the application for a reissue were required to be sworn to by the owner, and at another time by the inventor. This amendment leaves it to be sworn to by the owner. The oath is of no importance, because the action of the Commissioner is to be based solely on the sworn statements filed by the inventor on his original application. To require his oath to the new application, is to enable him to extort money from the person who has already bought and paid him for the invention.

SEC. 22. *Abandoned applications.*—The change made consists in inserting the words "in order to be a continuation of the original application" in line 7.

SEC. 23. The law has always required the patentee to mark on the article the date of the patent. About three hundred patents a week are now issued, all bearing the same date. This amendment requires him to add the number of his patent, in order that it may be identified.

SEC. 24. *Interferences.*—The first part of this section, to line 15, makes no change in the law. The provisos amend section 4904 so as to include reissue applications, and make the law about them substantially conform to what the decisions have established about them.

SEC. 25. Repeals all inconsistent laws. Provisions have been added to each section which relates to substantial rights as distinguished from the form of remedy, so that the changes introduced shall not be destructive of existing rights of property.

Several of the sections, particularly section 1 (limitations) and section 2 (damages and profits), apply not merely to existing patents, but to some extent to existing rights of action. After hearing elaborate arguments upon both sides of the question, your committee are satisfied that a patent right is "property" within the protection of the Constitution, and cannot be taken away or impaired by any legislative action. This was directly decided by the Supreme Court in *McClurg* vs. *Kingsland* (1 How., 206), again declared in *Seymour* vs. *Osborne* (11 Wall., 533). The same proposition was laid down by Mr. Chief Justice Marshall, in *Evans* vs. *Jordon* (1 Brockenbrough, 252), and by Judge N. K. Hall, formerly Postmaster-General of the United States, in *Ransom* vs. *New York* (1 Fisher's Patent cases, 259). That right is under the terms of the law, and under the Constitution probably must be exclusive. This was declared by Mr. Chief Justice Marshall, and by this committee in reports No. 150, of May 5, 1870, and No. 467, of July 15, 1876, and adopted by the Senate.

But while Congress is bound to provide a remedy efficient and adequate to cause that right to be respected and protected from invasion, it clearly has the right to select the precise remedy for that purpose. Though the patentee has a right to some sufficient remedy, because without it his right would be merely nominal and illusory, and therefore, virtually be taken from him, under the doctrines laid down in *Bronson* vs. *Kinzie* (1 How., 311), without due process of law, yet he has no right to any particular remedy. His right is to such efficient remedy as exists at the time of trial, and not necessarily to such as existed at the time the cause of action arose. Your committee cannot doubt, therefore, that Congress can make some changes in the remedy for existing causes of action, and that the changes made by this bill leave them fully adequate and efficient to secure to the inventor the exclusive right which the Constitution contemplates that Congress shall secure to him.

The bill is accordingly reported with amendments, and its passage recommended.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 117.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1878.—Ordered to be printed.

Ir. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3296.]

'he Committee on Military Affairs, to whom were referred S. 356 for the relief of Capt. William L. Foulk, and H. R. 3296 for the relief of same, have duly considered the same and submit the following report:

A bill for the relief of Capt. William L. Foulk passed the House of 'epresentatives of the Forty-fourth Congress, and was referred to this ommittee, and amended and reported back to the Senate, and as nended passed the Senate, and failed in the House for want of time at ie close of that Congress.

S. 356 was referred to this committee, and, since its reference, the ouse Bill 1567 was passed and sent to the Senate, and also referred to iis committee.

The two bills differ very little.

The Committee on Military Affairs of the House made the following ıport to accompany said H. R. 1567:

The Committee on Military Affairs, to whom was referred the bill (H. R. No. 1567) r the relief of Capt. William L. Foulk, late of the Tenth Regiment United States ıvalry, having considered the same, would respectfully report thereon as follows:

Capt. William L. Foulk entered the volunteer service April 23, 1861, as second lieunant Seventh Regiment Pennsylvania Volunteer Infantry—three months' service—ıd served in General Patterson's command until August 5, 1861, when he was mustered t as first lieutenant, having been promoted June 11, 1861; re-entered the service ıgust 26, 1861, as captain Forty-sixth Pennsylvania Volunteer Infantry, and was prooted lieutenant-colonel June 9, 1863.

Service: With regiment in Maryland and Shenandoah Valley of Virginia, and in ıstern Virginia until wounded in action and taken prisoner at Cedar Mountain ıgust 9, 1862; in the hands of the enemy to October 22, 1862; on parole and under edical treatment to June, 1863; with regiment in the Army of the Potomac to Sepmber 25, 1863, and in the army of the Cumberland to January 26, 1864; on detached ıty, recruiting, &c., at Pittsburgh and Erie, Pa., to December 11, 1864; in command Exchange Barracks, Nashville, Tenn., to July 29, 1865, when honorably mustered ıt of the service. When with his regiment he participated in all its battles (includg Gettysburg), marches, &c. He is strongly indorsed by Major-Generals A. S. 'illiams and John W. Geary (the latter afterward governor of Pennsylvania), under ıom he served during the war.

May 11, 1866, he was appointed second lieutenant Eighteenth Infantry, Regular 'my; September 21, 1866, transferred to Thirty-sixth Infantry; promoted to first ıutenant March 1, 1867; December 15, 1870, assigned to Tenth Cavalry, and afterırd promoted to captain of same regiment.

Service: In Nebraska, and Utah and Fort Potter, New York, with infantry regiıents; Indian Territory and Texas until January 4, 1874, when he was dismissed by e court-martial proceedings held at Fort Griffin, Texas, September 19, 1873.

The following is the Judge-Advocate-General's review of the trial;

"WAR DEPARTMENT, BUREAU OF MILITARY JUSTICE,
June 25, 1876.

"SIR: In compliance with your direction, conveyed through the indorsement of the Adjutant-General of the 23d instant, I have the honor to report as follows upon the application for reinstatement of W. L. Foulk, late captain Tenth Cavalry, dismissed the service in December, 1873. (See General Court-Martial Orders, No. 58, of that year.)

"Captain Foulk was brought to trial—

"First. For an assault, accompanied by threatening words, committed (on August 3, 1873) upon his superior officer, Capt. C. D. Viele, of the same regiment, by striking him on the neck with his saber. Of this offense, presented under different charges, he was convicted, and sentenced to be dismissed.

"Upon the conclusion of this trial, Captain Foulk was at once arraigned a second time before the same court upon a charge of having preferred false and malicious charges against Captain Viele, in charging him—

"First. With having (on April 25, 1873) been intoxicated, and while in that condition applying insulting and unjustifiable language to him, Captain Foulk.

"Second. With having (on April 28, 1873) improperly arrested and confined a female servant of Captain Foulk and deprived his family of her services, to their great inconvenience.

"Third. With having taken the aggressive and assaulted him, Captain Foulk, on the occasion of the altercation which was the subject of the charge at the first trial.

"Of these three specifications, the accused was acquitted of the two first, and convicted of the third, and upon this conviction was sentenced again to be dismissed.

"The proceedings and sentences in both cases were approved by the President, as indicated by the general order already referred to.

"The second trial of this officer appears to have been resorted to because the additional charges did not arrive at the department headquarters in time to be consolidated with the originals. Its effect has been, no doubt, to prejudice, and, in the view of this bureau, to prejudice unfairly the case of this officer. It was valuable, however, as presenting facts without which the merits of the entire case could scarcely be comprehended.

"Upon a careful review at this time of the testimony comprised in the two records of trial, the case of this officer presents itself to this bureau in brief as follows:

"In the first place, the evidence is deemed to furnish good ground for believing that when Captain Foulk reported for duty to Captain Viele, on April 25, 1873, the latter was, somewhat at least, under the influence of liquor, and did in fact improperly and offensively receive and address Captain Foulk, who was naturally incensed at his treatment. He is thus deemed to have been justified in preferring a charge against Captain Viele founded upon this interview. As to his charge against the latter for improperly depriving him of his servant, this was without foundation, since Captain Viele is shown to have acted by the orders of a common superior. It was natural enough, however, that Captain Foulk should connect the act of Captain Viele on this occasion with his hostile and rude conduct three days before, and the court was clearly correct in finding that the second charge was preferred without malice or improper intent. As to the third accusation, though that is not deemed to have been sustained by the testimony, there yet was, in my opinion, enough ground for it to have relieved the accused from a conviction for having preferred it falsely and maliciously. In my judgment, therefore, he should have been wholly acquitted at the second trial.

"As to the main offense—that which was the subject of the first trial—the evidence was conflicting. It was admitted by accused that he struck Captain Viele with his saber, but it was claimed by him that he did so practically in self-defense. The altercation between the two officers arose as follows: Captain Viele had been detailed to take command of a scouting-party, to consist of a detachment from his own company and a smaller one from the company of the accused. A certain number of pack-mules had been furnished to attend the party, and their disposition was of course under the control of its commanding officer. One of these mules, which had been tied to the picket-line of accused's company, was supposed—and with some reason—by accused to be intended for the use of the detachment from his own company, and he sent a corporal to lead it away to be packed. Captain Viele, proposing to use this mule for his own detachment, ordered the corporal to leave it, and, on his hesitating, took it from him by the halter. Captain Foulk then approached and apparently remonstrated with Captain Viele, who thereupon, as accused asserts, and three of the witnesses at the trial positively declared, struck at, or made motions as if to strike at, the accused with his clenched fists, at the same time, as was stated by these witnesses, using angry and opprobrious words. That Captain Foulk thereupon struck Captain Viele a violent blow on the neck with his sheathed saber, which he had been carrying under his arm as officer of the day, is, as has already been noticed, admitted; but that the latter

first struck at or threatened Captain Foulk is denied by himself and by the other witnesses on the part of the prosecution, who claim to have seen what occurred. From all the evidence, however, taken together, there is deemed to be good ground for the inference that Captain Viele probably did in fact assume a menacing attitude toward the accused before the latter struck him, and that the accused had some reason, at least, for believing that he was about to be attacked. So, though the blow inflicted by the accused was certainly without sufficient justification and constituted a grave offense, yet when it is considered that the officer struck was one of his own rank, and his superior only by seniority of commsision; that he had on a previous occasion treated him with contumely and refused to have any but official relations with him; and that on the occasion of the assault he had, in a degree, at least, provoked him, it must be admitted that there were in the case such palliating circumstances as would have justified some mitigation of the sentence.

"Mr. Foulk has filed, in connection with his present application, and on previous occasions, a large number of testimonials, both from military men and civilians, which ascribe to him a high character for efficiency and fidelity as an officer both in the volunteer and the regular service, and an excellent reputation as a citizen. Among these persons are Governors Hartranft and Geary, Senators Cameron and Scott, Hon. Mr. Negley, Messrs. F. R. Brunot, Samuel Harper, James Park, and others, of Pennsylvania, and by the Commissary-General and Paymaster-General of the Army, Lieutenant-Colonel Hardie, Majors O. H. Moore and William Myers, A. Q. M., Captains R. E. Johnston and L. Catlin, &c. Brigadier-General Auger, by whom the court in this case was convened, writes as follows:

"'I should be glad to have the record of the proceedings of the court examined again by the Judge-Advocate General of the Army, and if anything is found therein to confirm Captain Foulk's impression, that it be corrected. My wish has been, and is now, that full justice should be done both to him and to the service. I have known the captain since 1867, when he first joined his regiment, and during that time I have never heard his integrity questioned, and, so far as I know and believe, or have heard, he is entirely free from habits of dissipation.'

"Although this bureau has on previous occasions declined to make a favorable recommendation in this case, yet now, after a thorough re-examination of all the testimony, and in view of the impressions derived therefrom, as above expressed, I am induced to conclude that a reappointment of the applicant may well be acceded to by the President. As already remarked, the second dismissal of this officer is regarded as unwarranted, while the first is deemed to have been a proper subject for mitigation. Mr. Foulk has now suffered under his sentence for two years and a half, and his personal worth as a gentleman and a soldier is, as has been seen, most fully vouched for.

"It may be added that if the views here expressed are approved, and the President determines to reappoint Mr. Foulk, his authority—if the opinion of Attorney-General Williams, in the case of Major Baird (14 Opinions, 164), be followed—will be limited to an appointment to the grade of second lieutenant. Congress, however, may, of course, by a special act, authorize the President to reappoint him to his former rank of captain, upon the occurrence of a vacancy.

"W. M. DUNN,
"*Judge-Advocate-General.*

"Hon. J. D. CAMERON,
"*Secretary of War.*

"ADJUTANT-GENERAL'S OFFICE, *July* 17, 1876.

"Official copy.

"THOMAS M. VINCENT,
"*Assistant Adjutant-General.*"

The Secretary of War in transmitting the foregoing letter, says that his "department is in favor of a bill for the relief prayed for by the petitioner."

From the foregoing it is evident that the provocation was very great, and Captain Foulk had good reason to believe, from the menacing attitude of Captain Viele at the time, and from his previously insulting conduct toward him, that he was about to be assaulted, when he struck the blow. The sentence of the court, therefore, was wholly unwarranted.

The record fails to show that the finding of the court-martial was approved by the President of the United States. Doubtless if the evidence and the findings had been submitted to the President he would have unhesitatingly declined to give his approval thereto. The previous good character of Captain Foulk as a soldier and a gentleman should be considered now, and the severe punishment that this officer has suffered by being out of the service so long and under the odium of the sentence should not be forgotten.

The testimonials furnished by Captain Foulk are very strong, coming as they do from the best and most influential citizens of Pennsylvania, as well as from many of the highest and most distinguished officers of the Army.

Your committee, feeling that great injustice has been done to a gallant and efficient officer, report back the accompanying bill as substitute for the bill referred to the committee, with a recommendation that it do pass.

In the Forty-fourth Congress, in this case, your committee in its report used the following language:

Under section 1228 Revised Statutes United States, page 215, "no officer of the Army who has been or may be dismissed from the service by the sentence of a general court-martial, formally approved by the proper reviewing authority, shall ever be restored to the military service except by a reappointment confirmed by the Senate."

This section was first enacted by Congress as a law July 20, 1868 (see vol. 15 United States Statutes at Large, page 135), and is merely declaratory of the law as it then was and had been declared for a long series of years by the unbroken opinions of the Attorneys-General of the United States. Under the Constitution it is the exclusive right of the President, the executive department of the government, to appoint all officers. "He shall nominate, and by and with the advice and consent of the Senate, shall appoint all embassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of departments." "The Congress shall have power to make rules for the government and regulation of the land and naval forces." Under these provisions of the Constitution, the Congress has the constitutional power to provide for the appointment of officers by law, and to designate the classes of persons from whom the President may appoint.

In regard to the Army, Congress has uninterruptedly for a long series of years designated the classes of persons from whom the President might appoint, until this provision established by law has come to be known as "promotion."

Section 1204 Revised Statutes United States, page 213, provides that "promotion in the line shall be made through the whole Army, in its several lines of artillery, cavalry, and infantry, respectively. Promotions in the staff of the Army shall be made in the several departments and corps respectively."

Under these provisions it is universally conceded that the President can only appoint a civilian to a second lieutenancy in the United States Army, and must fill all vacancies above that grade by appointment of the officer next in rank, which appointment is known as a promotion.

To enable the President to appoint any person in civil life to a position in the line of the Army above the grade of second lieutenant, there must be an enabling act passed by Congress repealing or suspending the operation of the general law regulating appointments in that particular case. This must be the effect of the enabling act; otherwise the President would be bound to follow the mode of appointment provided and established by law.

What is the effect in law of a dismissal of an officer of the Army?

Unquestionably when an officer is dismissed the service or resigns he is thenceforth a civilian—a mere private citizen; nothing more. In a case of dismissal, after execution or promulgation of sentence, a pardon by the President cannot restore the officer to his former rank. Even Congress has absolutely no authority or power under the Constitution to restore an ex-officer to his former rank. Such an act would be an appointment, which can only be made by the President. Congress can only regulate the appointments; cannot make them.

Attorney-General John Nelson, in November, 1843 (see volume 4, Opinions of the Attorneys-General, page 274), decided that "no case has been brought to my notice in which an officer once dismissed has ever been restored to the service otherwise than by nomination by the Chief Magistrate and confirmation by the Senate, where the grade was within the control of their joint action, and if such a case has occurred I should not hesitate to declare it to be in direct repugnance to the Constitution and laws, and to every principle applicable to their just and safe construction." In same volume, page 306, on January 23, 1844, he further says: "I know of no power by which an officer once out of the service can be brought back to it other than that of appointment."

January 22, 1869, Attorney-General William M. Evarts, in volume 12, Opinions of Attorneys-General, page 547, says: "A pardon by the President will restore an officer whose rank has been reduced by sentence of a court-martial to his former relative rank according to the date of his commission.

"The case of an officer who has been reduced in rank differs essentially from that of an officer who has been dismissed from service by sentence of a military court. After the latter is duly confirmed and executed, the dismissed officer cannot be reinstated by means of a pardon or in any other manner than by a new appointment and confirmation by the Senate."

ıese decisions are in full accord with the settled principles of the Constitution laws, sanctioned and adhered to by all departments of the government in all well-idered cases.

ıe full extent of the power of Congress, then, by legislative enactment, is to un-ımel the discretion of the Chief Executive by suspending for the time being and ıe given case the operation of the laws of the land, so that he can, if he desire, ›int an exofficer, a civilian, to a rank and grade in the line of the Army above that hich he could otherwise appoint—to a vacancy above the grade and rank of sec-lieutenant.

› preserve inviolate the balance of power intended by our Constitution, and to dis-ıtenance encroachments of one department upon another, Congress, in such legis-'e enactments, should not direct or attempt to influence or control the sound dis-on of the President.

ith these views briefly expressed, as guiding your committee in the discharge of luties, your committee have fully considered the case of Captain Foulk, and in v of the letter of the Secretary of War and the recommendations of the Secretary Var and Judge-Advocate-General, and the long and valuable services of this offi-ınd his very high character for efficiency, sobriety, and integrity, and the very ıg palliating circumstances in his case, your committee consider this case justifies ılative action by Congress, within the limits and for the purposes hereinbefore ɔd, and have prepared and report the accompanying bill to the Senate, with the mmendation that it do pass.

'our committee adhere to the correctness of the law and conclusions ıtated in the foregoing extract.

.fter a careful review of this case, and with the law and conclusions xpressed, your committee report back to the Senate the House bill ї without amendment and recommend the passage of the same.

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5TH CONGRESS, 2d Session. } SENATE. { REPORT No. 118.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1878.—Ordered to be printed.

Mr. SPENCER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2108.]

The Committee on Military Affairs, to whom was referred H. R. 2108, "*An act for the relief of William A. Hammond, late Surgeon-General of the Army,*" *passed the House of Representatives February* 27, 1878, *have had the same under consideration, and submit the following report:*

With the exception of the words "or any other act" added in line 8 of the proviso of the second section of the act, so as to read: "*Provided,* that the said William A. Hammond shall not, in virtue of such restoration to the Army, or of any provision of this act *or any other act*, be entitled to back, present, or future pay or allowances of any kind whatsoever," this act is identical with S. 560, "A bill for the relief of William A. Hammond, late Surgeon-General of the Army," reported favorably to the Senate by Mr. Spencer, of your committee, with recommendation that the same do pass, on the 19th day of February, 1878, as per printed Report No. 102, Forty-fifth Congress, second session.

Your committee interpose no objection whatever to the additional words "or any other act," which it appears constituted an amendment reported by the Military Committee of the House of Representatives to the original bill as there presented.

The report made on this case by the Committee on Military Affairs of the House of Representatives to that body, which is transmitted to the Senate in manuscript, and signed by Representatives McCook, Maish, and Dibrell as subcommittee (see same in print in Congressional Record, February 28, 1878, page 21), is identical in terms with the recommendations contained in Report No. 102 of your committee, hereinbefore referred to. The House of Representatives having, as appears by the Congressional Record, unanimously approved the report of their Committee on Military Affairs, and passed the act without dissent, with the amendment suggested, your committee recommend the concurrence of the Senate in the said act, which, if so concurred in, will obviate the necessity for further consideration of S. 560.

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ONGRESS, Session. | SENATE. | REPORT No. 119.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1878.—Ordered to be printed.

ENCER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 1254.]

nmittee on Military Affairs, to whom was referred (H. R. 1254) he relief of John A. Darling, have had the same under consid- n, and submit the following report:

is an act identical with that which passed the Senate late in the session of the Forty-fourth Congress, upon favorable report of mmittee (as per printed report No. 615, second session Forty- Congress, to accompany S. 1202), but was pending in the House esentatives when the Forty-fourth Congress expired by limita-

eport made by the House Committee on Military Affairs to that the present session, upon which the act was passed without or objection, is, in effect, identical with that heretofore made by ate Committee on Military Affairs of the Forty-fourth Congress, g that the case is extreme and exceptional, and recommending passage of the act restoration to the rank and place held by this n the service, from which, through error and misrepresentation, been unjustly removed.

ldition to this, the House Committee on Military Affairs find the statement of facts presented in the record, the law did not ze the transfer and muster-out of this officer. The following is ort of the House Committee on Military Affairs:

ears from the evidence presented in this case both by the petitioner and Department, that John A. Darling entered the military service of the tates in 1861 as a second lieutenant, Second Artillery, United States Army. nber, 1862, he was granted leave of absence, with permission to accept a on as major of the Third Pennsylvania Artillery, in which grade he served ld until he was honorably mustered out of the volunteer service at the n of the war, and joined his regular regiment on the Pacific coast, with the irst lieutenant. He was commissioned captain in the Second United States December 9, 1867. His record during the war is that of a gallant, faithful, ent officer, who was constantly in the field, having command of artillery in erations in Missouri, at New Madrid, Island No. 10, and later in the cam- Virginia, for which, at the conclusion of the war, he was brevetted captain r in the Regular Army for "gallant and meritorious conduct." During the so served as inspector-general of the eastern district of Virginia, and afterward nd of the post at Alcatraz Island, California; at Point San José, California, ort Stevens, Oregon, where he was stationed at the date of his muster-out.

ier appears from the report of the Adjutant-General of the Army and his let- April 3, 1871 (filed in this case and numbered 16), that the petitioner was the list of supernumeraries, and consequently mustered out of the service, recommendation and report of Lieut. Col. George Crook, Twenty-third Infan- the General of the Army directed should be "construed" to be that of a de- commander, made under section 11 of the act of July 15, 1870. The following tion:

"*And be it further enacted*, That the General of the Army and commanding officers of the several military departments of the Army shall, as soon as practicable after the passage of this act, forward to the Secretary of War a list of officers serving in their respective commands deemed by them unfit for the proper discharge of their duties, from any cause except injuries incurred or disease contracted in the line of their duty, setting forth specifically in each case the cause of such unfitness. The Secretary of War is hereby authorized and directed to constitute a board to consist of one major-general, one brigadier-general, and three colonels, three of said officers to be selected from among those appointed to the regular Army on account of distinguished services in the volunteer force during the late war; and on recommendation of such board, the President shall muster out of the service any of the said officers so reported with one year's pay; but such muster-out shall not be ordered without allowing such officer a hearing before such board to show cause against it."

This statute gives the President authority to muster any officer out of the military service of the United States on the following conditions:

First. That the department commander of the officer has, in pursuance of this act, officially reported to the Secretary of War that such officer is unfit for the proper discharge of his duties.

Second. That such officer has been allowed an opportunity to defend himself against the report of his department commander before such board.

Third. That the report favoring such officer's muster out of the service has been approved by a board consisting of one major-general, one brigadier-general, and three colonels.

In pursuance of this statute, orders were issued from the War Department in July, 1870, directing the various department commanders to prepare and forward to the Secretary of War a report on the efficiency and character of the officers in their command. In obedience to this order, General E. R. S. Canby, in whose department the petitioner has been serving for some years as a post commander, prepared and, in October, 1870, forwarded to the War Department his report, which, by the above statute, is made absolutely necessary in order to initiate the proceedings before the board named in the law, without the approval of which the President had no power to muster an officer out of the service for the cause assigned in this case.

On an examination of the special list prepared by General Canby of the officers in his department "deemed unfit for the proper discharge of their duties," the name of Captain Darling does not appear; but, on the contrary, it appears that in a separate report made by that distinguished officer at the same time, in which he gives the standing of all field and company officers of his command in their respective grades, the petitioner is commended as a good officer, and rated fourth on the list of captains. There were but three captains in the department that the department commander preferred before Captain Darling. There was then no charge made against this officer that gave the board of officers provided for in the statute quoted, authority to pass upon the standing of Captain Darling and recommend his muster-out.

It is further shown that Captain Darling was not only not given an opportunity to appear before this board, but he was entirely ignorant of any proceedings against him at Washington, and, resting securely upon his good record at the War Department and the high approval he had received from his department commander, he had no thought of personal injury, until he received the order announcing to the Army his summary discharge from the service.

On this state of facts the law did not authorize the transfer and muster-out of this officer.

It appears from the records transmitted by the Secretary of War that Lieut. Col. George Crook, Twenty-third Infantry, was called upon by the assistant adjutant-general, Military Division of the Pacific, to make report of such officers whose discharge would benefit the service, derived from his knowledge of them, obtained when commanding the department of the Columbia, he having previously commanded that department; and that upon the report or recommendation of that officer the petitioner was transferred from the active to the supernumerary list, and immediately mustered out of the service.

The evidence filed in this case is very exhaustive, and shows most conclusively that this report upon which the War Department based its action cannot possibly be maintained as legally correct or just in the slightest particular. The officer who made it subsequently stated that he had been deceived as to the facts upon which his report and recommendation were based, and his letter is on file in which the statements originally made by him concerning the petitioner are virtually withdrawn. It is clear, therefore, that the transfer, upon unsustained allegations of the petitioner from the active to the supernumerary list for the express purpose of an immediate muster-out, was erroneous; that his claim for reinstatement is meritorious; and the conclusion is unavoidable that he has been made to suffer great wrong and injustice both in his personal and official character.

Considering all the testimony, your committee is of opinion that, if these charges *were properly* entertained, the petitioner was entitled to a hearing under the require-

ments of the law, and that there was sufficient time for that purpose. The correct history of the case shows, that he was summarily discharged the service under charges which are shown to have been entirely without foundation, and which have since been actually withdrawn, yet Captain Darling has not had an opportunity for that hearing which the law provides notwithstanding his immediate department commander, Brigadier-General Canby, made a most favorable report of him as an officer.

It is quite proper here to state that the documents filed before the committee satisfactorily explain why the relief now sought was not applied for sooner by the petitioner. A similar bill to the one now reported passed the Senate in the Forty-fourth Congress and at the close of the session was pending before the House.

Captain Darling has been commended from the highest sources by numerous letters and official reports on file with the record. He has been regarded as a faithful, zealous, and efficient officer of artillery and a gentleman without reproach in the service or in private life. His is an extreme and exceptional case. It is an instance of a gallant and most excellent officer being summarily discharged the service without his knowledge of proceedings pending for such purpose, without the opportunity or privilege of being heard in his defense. This case specially appeals to Congress for favorable action, and your committee recommends the passage of the bill for the restorarion to the rank and place held by this officer in the service, from which through error and misrepresentation he has been unjustly removed. The accompanying bill (H. R. 1254) is reported with an amendment and the recommendation that it do pass.

Your committee deem it proper to append a letter from General George Crook, received by the chairman of your committee after the adoption of the former report, but subsequent to the adjournment of the Forty-fourth Congress. Also a letter addressed to Major Darling by General John A. Dix, upon whose staff this officer served, referring to the report heretofore made in this case by the Senate Committee on Military Affairs of the Forty-fourth Congress, expressing the hope that the injustice done might be repaired.

FORT LARAMIE, WYO., *March* 19, 1877.

DEAR SIR: I beg your pardon for this long delay in answering your letter in behalf of Maj. John A. Darling. My recollections about his case are so indistinct that I have deferred writing you from day to day in hopes of getting to department headquarters, where I might find among my retained papers something to refresh my memory; but as it is probable an extra session of Congress will be called, I shall delay no longer, As near as I can recollect, my recommendation to have Major Darling's name placed on the list of supernumeraries was based upon documentary evidence which must be on file in Washington. If my recommendations were based on the statements or testimony of Lieutenant Osgood, I most certainly will withdraw them. I am free to say that I have no personal feeling in this matter, and if I have done Major Darling an injustice I will be only too glad to rectify it.

I have the honor to remain, your obedient servant,

GEORGE CROOK,
Brigadier-General, United States Army.

Hon. GEORGE. E. SPENCER,
Chairman Senate Military Committee.

SEAFIELD, WEST HAMPTON,
September 15, 1877.

MY DEAR MAJOR: I have read the report of the Senate Committee on Military Affairs submitted by Mr. Spencer with equal interest and pleasure; and it appears to me that this document, with the letter of General Crook to the committee, ought to insure your restoration to your former rank and position in the Army. *The highest duty of a government is to repair an injustice; its greatest reproach, to neglect or decline to do so, when the wrong has been clearly established.*

Your case is manifestly an exceptional one, and I earnestly hope the President, to whom you may, if you think proper, inclose this letter, will agree with the committee that your reinstatement is due to your efficient and honorable services.

I am, dear major, very truly yours, JOHN A. DIX.

Maj. JOHN A. DARLING.

Your committee, in view of the previous recommendation of the Senate Committee on Military Affairs of the Forty-fourth Congress, together with the favorable report of the House committee of the present Congress, and the prompt passage of the act without dissent by that body, recommend concurrence of the Senate in the act H. R. 1254.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 120.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1878.—Ordered to be printed.

Mr. SPENCER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 386.]

The Committee on Military Affairs, to whom was referred the bill (S. 386) to extend the time for presenting claims for collecting, drilling, or organizing volunteers for the war of the rebellion, have had the same under consideration, and submit the following report:

The Secretary of War transmits to the Senate, for the information of the Committee on Military Affairs, of date War Department, January 10, 1878 (Ex. Doc. No. 7, 45th Congress, 2d session), a report on the subject-matter of the bill, made by General Thomas M. Vincent, Assistant Adjutant-General, to General E. D. Townsend, Adjutant-General, by which it appears that if this bill is intended to extend the time for the purpose of securing reimbursement to States for payment of expenses incurred by such States in enrolling, subsisting, clothing, supplying, arming, &c., of troops, known as State war-claims, the same should be so specified in the bill with such distinctness as to admit of no misinterpretation. The Adjutant-General of the Army, in forwarding General Vincent's report to the Secretary of War, gives it as his judgment "that the extension of time, as contemplated, would not only be unnecessary, but would cause the War Department to be flooded with fraudulent claims."

Numerous petitions from governors of States have been presented to the Senate, at the present session, asking reimbursement for expenses known as State war-claims, which petitions were referred to your committee, and by your committee reported back with recommendation that they be discharged from their further consideration, and that the same be referred to the Committee on Claims, which action has been concurred in by the Senate.

In view of the fact that the bill is silent as to any intendment that might apply to State war-claims, and that if such be the purport of the bill the same is not set forth and specified with such distinctness as to admit of no misinterpretation (as suggested by General Vincent in his report), your committee find it open to the objection interposed by General Townsend, that the extension is not necessary, and would cause the War Department to be flooded with fraudulent claims.

Under such circumstances, and inasmuch as the petitions of the governors of several States for reimbursement of these State war-claims

are now pending before the Committee on Claims, your committee do not consider it necessary to ask that they be relieved from the further consideration of the bill, so that the same be referred to the Committee on Claims. But, as the bill is uncertain and ambiguous in its terms, and, as insisted by the Adjutant-General, is suggestive of the interposition of fraudulent claims, your committee are constrained to report adversely thereon, and to recommend the indefinite postponement of the bill.

5TH CONGRESS, 2d Session. | SENATE. | REPORT No. 121.

IN THE SENATE OF THE UNITED STATES.

MARCH 5, 1872.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bills S. 850 and S. 352.]

The Committee on Military Affairs, to whom was referred the bill (S. 352) to authorize the restoration of George A. Armes to the Army, report as follows:

It appears from the evidence before the committee that Captain Armes was arraigned before and tried by a general court-martial convened at Fort Leavenworth, Kansas, March 12, 1870. There were before the court on this trial four charges, with accompanying specifications, against Captain Armes. One of the charges with its specifications (charge 1) was abandoned by the judge-advocate on the trial, and need not now be considered. He was found not guilty on the third and fourth charges, and guilty as to the second charge, and was sentenced "to be dismissed the service."

Charge 2, upon which he was found guilty, is as follows:

CHARGE II. Conduct unbecoming an officer and a gentleman, in violation of the eighty-third Article of War.

Specification 1. In producing and publicly exhibiting at the mess-table, at Fort Harker, Kansas, several lewd, indecent, obscene, and lascivious pictures.

Specification 2. In then and there giving said pictures to the negro servant Ben, and ordering him to carry them to a Miss Shaw or Foster, living near, and ask her what she thought of them.

Specification 3. And when the said girl, after such public insult, resented it by slapping his face at the table, calling her a "damned fool." All this August 19, 1869.

Of the first specification he was found guilty. Of the second specification, guilty, except the words, "and ask her what she thought of them." Of the third specification, guilty; substituting the words "derned fool" for the words "damned fool." Of the charge, guilty.

The sentence is as follows:

And the court does therefore sentence him, Brevet Major George A. Armes, captain tenth United States Cavalry, "To be dismissed the service."

Following this the committee finds an order styled "General Court-Martial, Orders No. 36, Headquarters of the Army, Adjutant-General's Office, Washington, June 7, 1870," reciting the assembling of the court, the findings and sentence, and closing with these paragraphs:

II. In conformity with the sixty-fifth of the Rules and Articles of War, the proceedings of the general court-martial in the foregoing case have been forwarded to the Secretary of War for the action of the President of the United States, and the proceedings, findings, and sentence are approved. The sentence will be duly executed.

III. Brevet Major George A. Armes, captain Tenth United States Cavalry, accordingly ceases to be an officer of the Army from the date of this order.

By command of General Sherman.

E. D. TOWNSEND,
Adjutant-General.

At a later date this appears:

WAR DEPARTMENT,
Washington, June 2, 1872.

In conformity with the sixty-fifth of the Rules and Articles of War, the proceedings of the general court-martial in the foregoing case of Brevet Major George A. Armes, captain Tenth United States Cavalry, have been forwarded to the Secretary of War for the action of the President of the United States, and the proceedings, findings, and sentence are approved. The sentence will be duly executed.

WM. W. BELKNAP,
Secretary of War.

If the order of June 7, 1870, was valid, then there was no need for the above order of June 2, 1872, nearly two years later.

Before proceeding to the question of validity or invalidity of the order of dismissal, the committee deems it proper to examine the testimony on which the sentence of dismissal is based. There were six witnesses to sustain the prosecution. One had been cashiered and dismissed the service on charge of fraudulent conversion of public property to his own use. Two were officers of the Army awaiting trial before the court that tried Armes, both charged with fraudulent conversion of public property to their own use. Each was sentenced to be dismissed the service, and, further, to confinement in the penitentiary for a term of years. Two were women proven to be of abandoned character, and their general reputation for truth and veracity was proved bad. One of them (Miss Shaw, or Foster) is the party to whom the pictures are alleged to have been sent. The sixth was the colored boy Ben, referred to in the specifications, whose testimony was manifestly contradictory and evidently unreliable.

On the part of Captain Armes, he is shown to be a man of conspicuous gallantry, who had rendered his country much valuable service in the field. He had been more than once handsomely mentioned in general orders, and appears to have had the entire confidence of his associates and commanding officers. No act consistent with the charge and specifications throughout his life was shown. On the contrary, he appears to have had a moral character consistent with his character for courage and dash. The committee is unable to perceive how such a man, upon such testimony, was found guilty of such a charge. In this conclusion the committee finds itself in accord with all of the several committees of the two houses which have heretofore examined, in some form or other, the case of Captain Armes. Still, if the proceedings were laid before the President of the United States, as the final reviewing authority, and the sentence was approved by him, the question is settled. If such is the fact, it is evidenced, so far as appears to the committee, by the orders heretofore quoted of June 7, 1870, and June 2, 1872. It does not affirmatively appear from either of these orders that the President ever saw the proceedings, or ever reviewed them, nor does that fact appear in any wise to the committee. Section 896 of the Revised Army Regulations of 1863, in force at the date of these proceedings, and yet so, reads as follows:

896. The judge-advocate shall transmit the proceedings without delay to the officer having authority to confirm the sentence, who shall state, at the end of the proceedings, in each case, his decision and orders thereon.

This being a case of dismissal from the service, the President is by law the final reviewing authority. Nowhere in the record submitted to the committee, "at the end of the proceedings," or elsewhere, does it appear that the President "stated" in this case "his decision and orders thereon," unless the indorsement of the Secretary of War of June 2, *1872, may* be so construed. This is not clear; it is not the natural con-

struction of the language. A court-martial is *quasi* of criminal jurisdiction, and it is submitted that nothing should be taken by intendment in the proceedings before a court-martial any more than in proceedings before a court of criminal jurisdiction.

The material and essential fact—that which is essential to the validity of the order of dismissal—to wit, that the President has reviewed the proceedings and confirmed the sentence, nowhere affirmatively appears. It would be as difficult to sustain this paper as evidencing that fact, upon authority, as to sustain a record of a court of criminal jurisdiction in a capital case, which did not show affirmatively the appearance of the accused, his arraignment, his plea, the election, impaneling and swearing of the jury, the hearing of evidence and argument, the charge by the court, the return into court of the verdict, the judgment thereon, &c., &c. In short, nothing on principle can be taken by intendment, in a case like this, involving the character of the accused. And the very fact that the law makes the President the final reviewing officer *only* in cases of sentence of death and of dismissal from the service, shows the jealousy with which the law wisely protects the character of the officer from unjust aspersion and accusation. Were there nothing in the way but the orders of June 7, 1870, and June 2, 1872, the committee would feel constrained to recommend a bill authorizing and instructing the President to review the case. It is manifest that the President's duty in this regard is judicial, and therefore cannot be performed by any one save the President himself. The record of *his* judgment, of *his* "decision and orders," may, of course, like any ministerial act, be performed by another hand, but the *judgment, the decision, the orders* in the case, must result from the operations of his mind and conscience. But the committee finds itself in the progress of the investigation confronted with an act which took effect June 9, 1874, chap. 273, as follows:

AN ACT authorizing and directing the Secretary of War to give to George A. Armes, late captain Tenth United States Cavalry, an honorable discharge, to date the 7th day of June, 1870.

Be it enacted, &c., That the Secretary of War is hereby authorized and directed to give to George A. Armes, late captain Tenth United States Cavalry, and brevet major United States Army, an honorable discharge from the service of the United States, to date June 7, 1870; and that said George A. Armes be paid the same pay and allowances as if he had been discharged under the provisions of the third section of the act entitled "An act making appropriations for the support of the Army for the year ending June 30, 1871, and for other purposes," approved July 15, 1870.

By virtue of this law, Special Orders No. 136, War Department, Adjutant-General's Office, Washington, June 19, 1874, were issued, honorably discharging Captain Armes as of date June 7, 1870. So that the committee concludes that the connection of Captain Armes with the Army was completely severed by virtue of the act aforesaid and order aforesaid, and whatever irregularities there may have been in the proceedings of the court-martial, and especially as to the review thereof, were completely cured by the act and orders aforesaid, and by the voluntary acceptance thereof by Captain Armes.

Afterward, to wit, during the second session, Forty-fourth Congress, Senate bill 407, a copy whereof accompanies this report as part thereof, marked Exhibit A, passed the Senate and House of Representatives, but failed to receive the signature of the President, and by the adjournment of Congress in less than ten days after the passage of the bill it failed to become a law.

It will be observed that this bill recognizes the fact that Captain Armes's connection with the Army was completely severed by the act

of June, 1874, before quoted, and the honorable discharge granted Captain Armes by virtue of that act.

Proceeding upon the view entertained by every committee which has investigated the case, to wit, that injustice has been done Captain Armes, this bill, last referred to as having passed both houses, declares:

That the provisions of law regulating appointments in the Army by promotion in the line are hereby suspended for the purposes of this act, and only so far as they affect George A. Armes, and the President can, if he so desire, in the exercise of his own discretion and judgment, nominate and, by and with the advice and consent of the Senate, appoint said George A. Armes, late captain in the Tenth United States Cavalry Regiment, to the same grade and rank of captain held by him on June 7, 1870, in any vacancy occurring: *Provided, however*, That no pay, compensation, or allowance whatever shall ever be given to said Armes for the time between June 7, 1870, and the date of appointment hereunder.

This bill appears to be, with a single exception, fairly guarded, and designed by Congress to do equity, as near as may be, to Captain Armes. If the intent of this bill was to authorize the President to nominate and the Senate to confirm Captain Armes captain of the Tenth Cavalry, to take his place in grade and rank *in the regiment* when a vacancy should occur in the grade of captain *in that regiment*, then the bill, in the judgment of the committee, would be equitable; but if it is to be construed as justifying promotion to the rank of captain, as of date June 7, 1870, in any regiment where a vacancy may occur, then it would not be equitable, because no one outside of that regiment has been promoted to the rank of captain by reason of his dismissal. The provision in respect to pay and allowance, prohibiting payment of any pay or allowance whatever between June 7, 1870, and his appointment under the act, should such appointment be made, is also right. It recognizes the act of June, 1874, which granted him an honorable discharge as of date June 7, 1870, and which directed his pay up to that date. The fact of complete disseverance from the Army is also recognized by the phraseology "*late captain*," &c.; also by the suspension of the law regulating line promotions so far as it affects this case.

Upon a full review of the whole case the committee is of opinion that the passage of an act in substance the same as the bill passed through both houses at the second session of the Forty-fourth Congress, would be equitable toward a meritorious officer, who has rendered good service and who has suffered injustice, as the committee believes, as all committees have reported, and as the two houses have twice shown they believed. In expressing this opinion, the committee does not wish to be understood as reflecting on the motives of the court, but to say that in its judgment the testimony was unreliable, and that no man whose whole life, from youth up, as the testimony shows in this case, was without tarnish, and whose official record is most honorable, should have his honorable ambition in his profession blasted and his fair character tarnished for all time by such testimony. Should the view of the committee be adopted, the committee would recommend that after the words "in any vacancy occurring," the words "in the grade of captain in said Tenth Regiment of Cavalry" be added. Such a law would leave it to the discretion of the President to nominate, and of the Senate to confirm, and is, in the judgment of the committee, the full extent of relief that can lawfully be granted to Captain Armes.

In pursuance of the views expressed in the foregoing report, the committee herewith report a substitute for Senate bill 352, submitted to them, and recommend the passage of the substitute.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 122.

IN THE SENATE OF THE UNITED STATES.

MARCH 6, 1878.—Ordered to be printed.

Mr. CHAFFEE, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 20.]

The Committee on Public Lands, to whom was referred the bill (S. 20) authorizing the citizens of Colorado, California, and Nevada, and the Territories, to fell and remove timber on the public domain for mining and domestic purposes, have had the same under consideration, and submit the following report, accompanied with a substitute for said bill, and recommend its passage:

The committee have carefully considered the subject of timber and timber-lands, and, after mature deliberation, with the view of devising the best methods of preserving, cultivating, and disposing of the same, have come to the conclusion that a distinction should be made between such trees as grow upon the mountains in the mineral districts and the forests of pine, oak, and other timber that grow in the more level portions of the country.

While the lumber of the latter is a regular and important article of commerce, and is constantly being cut and transported in large quantities to ready markets, the character of the former renders the timber unfit for commercial purposes. Even were this otherwise, it is usually found in such inaccessible places as to preclude its transportation to market. Consequently, it is used by the prospector, the miner, and other members of mining communities for domestic and other practical purposes incidental to the development of mineral districts. The committee do not believe that it would be wise policy on the part of the government to seek to profit directly by the sale of this kind of timber nor to tax the pioneer by compelling him to purchase it. Except as a source of revenue, by sale to the settler, it never can be of any value to the government. Should the experiment be tried of requiring payment for it, it would be found that the cost of keeping agents for its sale and officers to prevent or punish infractions of the law at remote and widely-separated settlements, would largely consume all sums received for this timber by the government. Thus, while it is practically of but little value to the government, it is essential to the settler and indispensable to his occupation and development of the mineral-lands. It has been the custom of Congress to encourage the exploration and development of the mineral-regions of the United States; and in this connection it should be borne in mind that it is mainly to the indomitable energy, hardihood, and daring of the pioneer that we are indebted for the discovery and development of the rich gold and silver districts of the coun-

try. What would be the condition of this country to-day had it not been for our product of gold and silver during the last quarter of a century? The $100,000,000 annually added by the United States to the world's stock of bullion will amply pay for the use of the scattering timber found in those localities. Instead of imposing this timber as a tax upon this important branch of industry, the committee are of opinion that, under the restrictions provided in this bill and on grounds of equity and public policy, the government should allow its free use by the actual settler for the purposes alluded to herein.

In 1866 Congress, by express statute, authorized the occupation and use of these mineral-lands, as follows:

Be it enacted, &c., That the mineral-lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and *occupation* by all citizens of the United States and those who have declared their intention to become citizens, subject to such regulations as may be prescribed by law, and subject also to the local customs and rules of miners in the several mining-districts, so far as the same may not conflict with the laws of the United States.

This is an express grant by the government to the people who occupy this portion of the public domain. There was no law by which settlers could purchase either the timber necessary for such occupation or the land upon which that timber is found. It is a well-settled principle applied to grants that the grant carries with it all the incidents necessary to enable the grantee to make the grant available. It is absolutely necessary for settlers to have timber for domestic use in order to enable them to occupy these mineral-lands. It would have been a mockery to make this grant without including such use of timber. It cannot be said that it was ever intended the occupants should pay for this timber, since no provision has ever been made for its sale or purchase. The government is more than paid for its value by the increased wealth added by mining operations to the grand total of taxable property. In view of these considerations, the committee recommend the passage of the substitute, which contains limitations and guards for the protection of undergrowth and such other restrictions as seem just and equitable.

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45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 123.

IN THE SENATE OF THE UNITED STATES.

MARCH 6, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill S. 766.]

The Committee on Indian Affairs, to whom was referred the bill (S. 766) to legalize certain patents issued to members of the Pottawatomie tribe of Indians, report:

That on the 23d of February, 1871, the President of the United States ordered patents to issue to certain Pottawatomie Indians who had not become citizens in accordance with the provisions of the third article of the treaty of 1861 and the sixth article of the treaty of 1867 with said Indians. The patents issued on the 15th of April, 1871, and subsequently several of these patentees conveyed their lands to innocent purchasers in good faith for a valuable consideration, who have made lasting improvements thereon and are now occupying the same. The Indians subsequently complied with the treaty, and the object of this bill is to quiet title and prevent litigation which might arise from apparent defects resulting from the premature acts of the government in issuing the patents.

The committee recommend the passage of the bill, with two verbal amendments to make it correspond with the treaty.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 124.

IN THE SENATE OF THE UNITED STATES.

MARCH 6, 1878.—Ordered to be printed.

Mr. MCMILLAN, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to whom was referred the memorial of Warren Mitchell, of Louisville, Ky., praying to be refunded the amount of proceeds of certain cotton seized and held by the Government of the United States and paid into the Treasury, have considered the same, and submit the following report:

The memorialist, Warren Mitchell, is a resident of Louisville, Ky. At and prior to the commencement of the rebellion he was engaged in business in said city and was a partner in two firms doing business there, namedly, Armstrong & Co. and Mitchell & Armstrong; the first-named firm consisting of Charles Q. Armstrong, Warren Mitchell, and Isaac Russell, the last-named firm being composed of Charles Q. Armstrong and Warren Mitchell. The firm of Mitchell & Armstrong dissolved on the 1st of November, 1861. The firm of Armstrong & Co. continued until Armstrong's death, in 1862. At the commencement of the rebellion there was due to these two firms from Southern debtors $116,421 or about that sum. Armstrong, whose sentiments were with the South in the rebellion, went South into the Confederate lines early in 1861, and died as it is believed, at Atlanta, Ga., in 1862.

In July, 1861, Mitchell procured from General Anderson, the commander of the Department of Kentucky, a military pass, permitting him to go through the United States military lines into the insurrectionary district. The purpose of his going South, as represented to General Anderson, was to collect debts due to the firms above mentioned, of which he was a member. Under the pass thus obtained he went into the insurrectionary States in July, 1861, and remained within the military lines of the Confederacy until the latter part of the year 1864, when, after the capture of Savannah, he returned to his family at Louisville.

While within the Confederate lines he collected debts in Confederate money, and was engaged principally in trading in the currency of the country and investing his means in cotton for himself and his Louisville firms. (*Vide* affidavit of Charles Estes.) In October, November, and December, 1864, Mitchell purchased, and had in store in Savannah, 738 bales of cotton, with marks and weights given, all of which was seized by General Sherman upon the surrender of Savannah to him, and was afterward sold; the net proceeds of which, after deducting the expenses, amounted to $128,690.22, and were paid into the Treasury of the United States.

On the 3d of July, 1865, Mitchell received from the President of the United States a full pardon and amnesty for all offenses by him com-

mitted, arising from participation, direct or implied, in the rebellion. The pardon was granted upon certain conditions, which were complied with by Mitchell.

Mitchell brought an action in the Court of Claims to recover the proceeds of this cotton. The court was equally divided in opinion as to his right to recover, and dismissed the case. Thereupon Mitchell removed the case by appeal to the Supreme Court of the United States.

The Supreme Court, affirming the judgment of the Court of Claims, held that Mitchell was domiciled in a loyal State when he bought the cotton in question; that the laws of war applied to all intercourse between the inhabitants of the loyal and disloyal States, and that according to the law of nations, all contracts of the inhabitants of the loyal States with the inhabitants of the insurgent States were illegal and void; the purchase of the cotton in question by Mitchell, an inhabitant of a loyal State, from the inhabitants of the disloyal States was illegal and void, and consequently he acquired no title to it.

At the first session of the Forty-fourth Congress, Mitchell presented his claim to Congress, and the Committee on Claims having considered the same, reported it back recommending the disallowance of the claim.

The claim was again presented at the second session of the same Congress, and a report was made recommending the payment of $128,622.62 to the claimant.

It appears from the journal of the committee that but five members of the committee were present when this action was taken, of whom one opposed the report and two others concurred in the direction to report, but without committing themselves upon the merits of the case. The report was recommitted by the Senate to the Committee on Claims March 2, 1877.

In urging the recommittal of the claim the Senator from Wisconsin (Mr. Cameron), a member of the Committee on Claims, said:

> It was referred to me for special examination. I made such examination and reported adversely. The report was concurred in by this committee, and concurred in by the Senate, and the bill was indefinitely postponed. Subsequently, the bill was recommitted to the committee. It was again considered by the Committee on Claims, and a majority of the committee reported in favor of the bill. In examining another case referred to the Committee on Claims since that time, the committee have discovered some very important evidence bearing upon this claim. It was claimed that this claimant, Warren Mitchell, was loyal during the late civil war. In examining the case of Conner Brothers, we had occasion to look into certain testimony taken before the district court for the district of Kentucky, and it appears from that testimony that this same claimant, Warren Mitchell, was employed by the Confederate Government, at Nashville, prior to the occupation of Nashville by the Federal forces, for the purpose of packing meat for the Confederate Government. He had a contract with the Confederate Government by which the live hog was furnished to him, he agreeing to slaughter the hog and return the hams, sides, and shoulders to the Confederate Government, and retain the rest of the hog for his pay.

The report having been recommitted, no further action was taken at that session of Congress.

At the present session of Congress, Mitchell again presented his claim, accompanied by additional affidavits of himself, Thomas M. Morgan, John B. Lewis, and a letter from V. McKnight, in support of his claim. Mr. Mitchell, in his additional affidavit, referring to the above statement made in the Senate, says:

> The commissary of the Confederate Government had made a contract with one R. F. Wilson of the character above stated; the said Wilson had made a subcontract with E. M. Bruce & Co., and in my absence and without my knowledge or consent, Mr. Armstrong, my Louisville partner, who was at Nashville, entered into a contract with said E. M. Bruce & Co., in relation to the business aforesaid. At this time I was *in Memphis*, Tenn., engaged in making collections of indebtedness, for which purpose

I had gone south under a permit from General Anderson, given me for that purpose, with a full knowledge of the object of my going, as in the papers already before you more fully set forth.

It was not until a considerable time after the contract last named had been entered into that I returned to Nashville, and I had no knowledge of it whatever until my return. Upon being informed that it had been entered into I objected to it, and protested against it, and at first refused to have anything to do with it; but Mr. Armstrong insisted that we would be compelled to carry it out, and in pursuance of it I did, for about six weeks, assist in its execution by purchasing hogs and superintending a slaughter-house at Clarksville, Tenn. I give this statement as to my relation to said contract with this particularity to the end that the committee and Congress shall know the precise facts, whatever may be the consequences. My connection with that transaction never was concealed or attempted to be. It was mentioned, as will be seen in the testimony in the Court of Claims. The assertion that I followed the Confederate army south from Nashville when it went is an entire mistake, nor did I accompany it. I was not at Nashville when it left, nor was I at any time at Nashville while that army was there. I never was with it at any time during my stay in the South, except passing through it in going from place to place, and only went to such places as my business of collecting called me. I went from Nashville to Huntsville, and thence to Atlanta by rail, where I found my old partner, Armstrong, who died in April, 1862.

In making collections I received cotton for debts; also purchased cotton as a mode of ultimately getting good money, and as the cotton thus acquired could not be taken through the Federal lines, I sold, bought, and sold again from time to time. I sold some in the interior, and repurchased in Savannah, and some I shipped to Savannah. These transactions continued until I had accumulated at Savannah the cotton that was seized, and for which this claim is presented.

Mr. Thomas S. Morgan in his affidavit states:

In the fall of 1861 I was cashier and bookkeeper for E. M. Bruce, at Nashville, Tenn. I know that Warren Mitchell did not have a contract with the so-called Confederate Government to pack meat—beef and pork. Mr. R. F. Wilson had the contract to pack meat for the said Confederate Government, and I know he (Wilson) made a subcontract with E. M. Bruce & Co. to pack some meat at Nashville and Clarksville. Mr. C. Q. Armstrong, Mitchell's copartner, while he was absent in the Southern States on a collecting tour, took an interest in the subcontract with E. M. Bruce & Co., in the firm name of Mitchell & Armstrong, of three-twelfths, and I do not think Mitchell had been consulted or knew anything about said contract until he returned to Nashville, some time after the subcontract had been made with Armstrong for or in the name of Mitchell & Armstrong. I also know that Mr. C. Q. Armstrong died in April, 1862, at Atlanta, Ga. I know that Mitchell was at no time, directly or indirectly, connected with the army of the Confederate Government, nor with said government, but that Mitchell was occupied in attending to the collection of his own and his firm's claims, and in looking after and attempting to secure the cotton he had taken and had on hand.

Of the cotton seized by General Sherman's army at Savannah Mr. Mitchell, in October, 1864, shipped to D. H. Baldwin, at Savannah, 487 bales from Griffin, Ga., to be sold on his account and others'; in this cotton Mr. A. L. Tyler, superintendent of the Macon and Western Railroad, was interested, in the profits, to pay him for his aiding in the transportation to Savannah. (Baldwin's affidavit, p. 8 of proofs.)

From the proofs submitted, it appears that Mitchell passed through the Confederate lines soon after the breaking out of the war, and remained within the insurrectionary States until the war practically closed, passing from State to State collecting debts in money or cotton, buying and selling cotton, and shipping it from place to place, as his convenience required, on his own account and on joint account with others, adherents of the insurrectionary government. It appears that during this time Mitchell not only collected the entire amount of the indebtedness due to both firms of which he was a member, but secured cotton the net proceeds of which at New York amounted to $128,692.62, or $12,000 more than the entire indebtedness to both firms. To have accomplished such a result as this under such circumstances casts much doubt upon the loyalty of the claimant.

The transaction at Nashville, however, puts the matter beyond doubt. Mr. Armstrong, the partner of Mitchell, was, without doubt, a secessionist and sympathizer with the Confederacy. Mitchell not only recognized

but by his personal labors assisted in the execution of the subcontract to supply the Confederate Government with pork. He knew what the contract was, and is too intelligent not to have known his rights and duties in the premises. That the execution of this contract was an act of disloyalty there can be no doubt.

Robert Floyd, in his affidavit submitted in this case, speaking of the claimant, Mitchell, says:

> I regarded him as a true Union man and supporter of the government until the leading public men of Kentucky published an address to the people announcing a neutral position. After that I think Mr. Mitchell held that doctrine, but was quiet and unobtrusive. I so regarded him when he left for the South.

Hon. Bland Ballard, in a letter submitted among the papers, dated May 30, 1876, addressed to Hon. John W. Stevenson, then a Senator from Kentucky, says:

> I do not know what were Mr. Mitchell's views of the rebellion. If he sympathized with it, and I have heard and believe he did, I regret it.

The decision of the Supreme Court that the purchase of the cotton in question by Mitchell, an inhabitant of a loyal State, from the inhabitants of the disloyal States, was illegal and void, and that he acquired no title to such cotton, settles the question that Mitchell has no legal claims whatever against the government. The testimony submitted shows that claimant was not loyal to the government, but being permitted to pass into the Confederate lines by the order of a general of the United States Army, that he rendered aid and sympathy to the Confederate Government. There are no equitable circumstances in the case upon which the claim should be allowed.

The committee therefore recommend that the claim be disallowed and that this report be adopted by the Senate.

Mr. Isham G. Harris, from the Committee on Claims, to whom was referred the memorial of Warren Mitchell, of Kentucky, submitted the following as the

VIEWS OF THE MINORITY.

At the beginning of the war, in 1861, the memorialist was, and for years had been, a merchant and resident citizen of the city of Louisville and State of Kentucky, having large transactions with, and large debts due to the firms of which he was a member, from the people of the Southern States.

The said firms with which he was connected were largely indebted to the Bank of Kentucky and other banks in Louisville.

In this condition of affairs he consulted Virgil McKnight, president of the Bank of Kentucky, and other creditors, who advised him to go south and endeavor to collect or secure the debts due said firms, as the only means of enabling said firms to pay their creditors.

For this purpose the said McKnight went with petitioner to General Anderson, then in command at Louisville, introduced him to that officer, and procured for him a pass to go south, explaining to General Anderson fully at the time the object and purpose for which the petitioner proposed to go south.

Under this pass the petitioner went into the States in insurrection in the latter part of the month of July, 1861, and remained there until the latter part of the year of 1864. During this period he collected a large amount of debts due said firms, and purchased seven hundred and thirty-four bales of cotton, which were delivered to him, and then stored in the city of Savannah. The cotton was purchased in the months of November and December, 1864. When Savannah was captured by the United States Army under General Sherman, this, with a large amount of other cotton, was seized by the military authorities, turned over to the agents of the Treasury, and then sold. The net proceeds of the petitioner's cotton, after deducting all expenses of sale, shipment, &c., as appears from the books of the Treasury, amounts to the sum of $128,692.22.

That petitioner devoted his time while in the South to collecting and securing, and in efforts to collect and secure, the debts due to his said firms, with the exception of about six weeks, which were devoted to superintending a slaughter-house at Clarksville, in the State of Tennessee, under the following circumstances:

One R. T. Wilson had made a contract with the commissary-general of the Confederate States to slaughter and pack meat. Said Wilson made a subcontract with E. M. Bruce & Co., and in the absence and without the knowledge of petitioner, one Armstrong, who was one of petitioner's Louisville partners, entered into a contract with said E. M. Bruce & Co., in the name of the firm, to take an interest of three-twelfths in said subcontract.

When this contract was made by Armstrong with Bruce & Co., petitioner was at Memphis, engaged in the collection of the debts he had gone south to collect, and had no knowledge of this contract until some considerable time after, when, in the course of his business, he went to Nashville, where he met Armstrong and was by him informed

of it. Petitioner "objected to and protested against it, and refused to have anything to do with it," but Armstrong had made the contract in the name of the firm, and assured petitioner that they were bound and would be compelled to carry it out. Upon that assurance he did, for the six weeks aforesaid, assist in its execution.

He then proceeded to the States of Alabama and Georgia upon his original mission of collecting and securing the debts due his firms, and in the latter part of the year 1864, as before stated, he invested his collections in cotton, as the surest, if not the only, means of making said collections available to his creditors, who resided beyond the limits of the Confederate States.

After his said cotton was seized by the officers of the government, under the advice of Hon. James Speed, then the Attorney-General of the United States, and an old and valued friend of petitioner, he applied for, and on the 3d July, 1865, received from the President of the United States, a full pardon for all offenses committed by him, by reason of any participation on his part in the insurrection.

He then instituted suit in the Court of Claims to recover the proceeds of the sales of his cotton from the government, but that tribunal being equally divided in opinion upon the question as to whether his contract of purchase vested the title to the cotton in him because of his residence in a loyal State, and the technical enemy relation existing between him and his vendors, who were citizens of the Confederate States, his case was dismissed and he appealed to the Supreme Court.

That court found that he had purchased the cotton, that it was captured by the officers of the government, and that the proceeds of its sale were in the Treasury, but decided that he acquired no title by his purchase, because his domicil was in Louisville, in a loyal State, while that of his vendors was in the insurrectionary States, and that a contract made under such circumstances was void. (See 21 Wallace, p. 350.)

In arriving at this conclusion, the court held that the permit given to the claimant by General Anderson conferred no rights upon him; but your committee are constrained to think, without questioning the law as laid down by the court, that no advantage ought to be retained by the government which resulted from the void and illegal act of its own officer. Admitting to the fullest extent the unauthorized and illegal character of the pass given to the claimant by General Anderson, after a full disclosure of the object of the former's mission, is it not plain that Mr. Mitchell would not have gone to the South at all if the pass had not been given to him? The circumstances under which the application was made and the permit granted show most conclusively that the officer and claimant were both ignorant, the one of his power, the other of his duty. General Anderson represented the government in a high military station. The claimant was a loyal citizen, anxious to save the bulk of his fortune, about to be lost, as he thought, by the civil war then commenced. The law of nations, which was applied by the court very rigorously in this case, is founded on wise and just principles. It prohibits all commercial intercourse between the citizens or subjects of countries at war with each other, because it would tend to strengthen and increase the power of the public enemy, which it is ever the object of war to destroy.

But the object of the petitioner in this case was to collect and draw from the public enemy rather than to furnish the sinews of war, or in any manner strengthen him, and to save from destruction what had *been honestly* earned and accumulated before hostilities began.

Why is it that the most enlightened writers on the laws of war have lauded the humane usage which permits the citizens or subjects of one nation to withdraw their property from another on the eve of hostile relations? And has it not always been an object of importance, on the conclusion of peace, to save to the subjects of the belligerent power their rights of property which were suspended during the heat of battle? We know, too, that when the private property of a citizen or subject is recaptured from an enemy by the forces or cruisers of that nation to which such subject belongs, that it is restored to him. The principles which uphold this practice spring from the reciprocal duties of allegiance and protection which constitute the most important relations in the state.

It is clear, and not disputed, that petitioner purchased and took possession of the cotton. It is equally clear, that by the officers of the government it was seized, taken from his possession, sold, and the net proceeds of the sale, amounting to $128,692.22, paid into the Treasury.

The ground, and the only ground, upon which he lost his case in the Court of Claims and the Supreme Court is, that his purchase and payment failed to vest the legal title in him, because the laws of nations prohibit all commercial transactions and intercourse between belligerents. He, a citizen of a loyal State, having purchased from citizens of a disloyal State, the contracting parties, each taking character from the State of which he was a citizen, were, in legal contemplation, enemies, and, therefore, could not legally contract. For this reason his purchases failed to vest in him such legal title as he could enforce in a court.

This contract failing to vest title in the petitioner, because it was void, certainly did not vest it in the government, because, to make the property confiscable, it must have been purchased "*with intent to use or employ the same, or to suffer the same to be used or employed, in aiding, abetting, or promoting such insurrection.*" (See section 5308, Revised Statutes.)

So far from any such *intent* appearing in this case, it clearly appears that he purchased the cotton for the purpose and with *intent* to send it to a loyal State to pay debts due to his loyal creditors.

Neither the purchaser nor the government having acquired title to the cotton, the title remains with the vendors, who may, under the rulings of the Supreme Court, recover the proceeds now in the Treasury, but for the statute of limitations.

If petitioner had been a citizen of a disloyal instead of a loyal State, his contract of purshase would have been legal, valid, vested title in him, and he would have recovered in his suit, without regard to the loyalty of either the vendor or vendee, because, in that case, the technical enemy relation would not have existed.

Contracts made between citizens of the Confederate States, even though payable in Confederate treasury-notes, are held valid unless they are designed to aid the insurrectionary government.

(See Confederate Note Case, 19 Wallace, 556; Hanauer *vs.* Woodruff, 15 Wallace, 448; Thornington *vs.* Smith, 8 Wallace, 1.)

To withhold from the petitioner the proceeds of the sale of this cotton, will apply to him, whose sympathies and influence the proof shows to have been from the beginning to the end of the struggle entirely with the Union cause, a harsher and more rigorous rule than can be applied to the commanding generals of the Confederate armies, under the law as interpreted by repeated decisions of the Supreme Court, and upon the sole ground that he was a citizen of a loyal State.

For, if the Confederate general, being a citizen of one of the Confederate States, had brought this action at the same time it was brought by

the petitioner, for the proceeds of this identical cotton, on precisely the same facts, he must have recovered.

In the case of Pargoud *vs.* United States, the court says:

> We have recently decided in the case of Armstrong *vs.* United States that the President's proclamation of December 25, 1868, granting pardon and amnesty unconditionally and without reservation to all who participated, directly or indirectly, in the late rebellion, relieves claimants of captured and abandoned property from proof of adhesion to the United States during the late civil war. It was unnecessary, therefore, to prove such adhesion or personal pardon for taking part in the rebellion against the United States.

(13 Wallace, 157, 158; Armstrong *vs.* United States, 13 Wallace, 154; United States *vs.* Kline, 13 Wallace, 128.)

The minority of the committee are of opinion that the government cannot afford to avail itself of a harsh technical rule of law to appropriate to its own use the property of its citizens, which appropriation has not, and cannot have, the sanction of equity, justice, or moral right.

For it is not pretended by any one that the government has any title to this cotton or the proceeds of its sale. Hence, if the government holds it, it is simply because there is no power to compel its surrender to the rightful owner.

The petitioner's contract of purchase being void, leaves the title in the persons of whom he bought the cotton. They, having been fully paid for it by the petitioner, do not complain or seek to defeat his title, and in justice and good morality no one else has a right to do so.

The minority of the committee, therefore, report the accompanying bill for the relief of Warren Mitchell, and respectfully recommend its passage.

ISHAM G. HARRIS.
FRANK HEREFORD.
JOHN H. MITCHELL.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 125.

IN THE SENATE OF THE UNITED STATES.

MARCH 11, 1878.—Ordered to be printed.

Mr. MATTHEWS, from the Committee on Railroads, submitted the following

REPORT:

[To accompany bill S. 512.]

The Committee on Railroads, to whom was referred Senate bill No. 512, a bill in relation to the Pacific railroads, report the same back, with a substitute therefor, recommending the passage of the latter.

The committee have given to the subject-matter of this bill and substitute patient thought and careful consideration. The interests involved in these measures are great, and have attracted wide-spread attention. The United States and the corporations concerned should both strive to reach some common ground whereby their several interests may be conserved, and their conflicting views relative thereto fairly, justly, and equitably adjusted. To reach this ground has been the purpose of the committee, and they hope to show that their efforts have been at least fairly successful. Not unmindful of the difficulties which surround the subject considered, the committee believe that the substitute reported presents a just solution thereof.

It is not the purpose of the committee to discuss the questions of law which may affect the peculiar relations existing between the United States and these corporations. What Congress has the power to do touching their relations is one thing. What is most wise to be done is quite another thing. Congress has reserved to itself the power, under certain limitations, "to alter, amend, or repeal" the acts under and in pursuance of which United States bonds were issued to these corporations to aid in the construction of their several roads. The committee do not care to discuss the power here reserved, nor to express an opinion relative to what Congress may or may not do thereunder and in pursuance thereof. The case presented to the committee seems to be one of practical business rather than of legal construction.

It turns upon a few facts, all of which are admitted, and about which there is no dispute. Under the act of July 1, 1862, and the acts amending the same or supplemental thereto, the United States advanced to the Central Pacific Railroad Company, of California, and the Western Pacific Railroad Company (now practically one corporation), to aid in the construction of the roads, United States bonds amounting in the aggregate to the sum of $27,855,680. The bonds mature thirty years after date, and during the period bear 6 per centum interest per annum. The interest for the term, therefore, will amount to $50,140,224, making, with principal, at the maturity of the bonds, a total of $77,995,904.

Under the same acts there was issued to the Union Pacific Railroad Company, for like purposes, bonds bearing same rate of interest, and

running for same term, to the amount of $27,236,512, with aggregate interest, for the term, of $49,025,721, and making a total at maturity of $76,262,233.

The total of principal therefore is	$55,092,192
The total of interest	99,165,945
Making a grand total at maturity of bonds of	154,258,137

This large sum is to be paid by the United States, and is to be repaid by the said corporations under and in pursuance of the aforesaid acts of Congress. Current repayment springs from two sources only:

1. Only one-half of the compensation for services rendered for the government by said companies shall be required to be applied to the payment of the bonds issued by the government in aid of the construction of said roads.—Section 5, act of July 2, 1864.
2. After said road is completed, until said bonds and interest are paid at least five per centum of the net earnings of said road shall also be annually applied to the payment thereof.—Section 6, act of July 1, 1862.

The interest paid by the United States to and including January 1, 1878, on account of the bonds issued to these corporations was $31,898,231.26. Under the first of the above provisions of law for reimbursement the United States had received at said date, $7,342,431.55, exclusive of unadjusted accounts and disputed claims.

Under the second provision of law cited the companies have made no payment directly, though the United States has retained all of the earnings for government service for the past five years, one-half of which amount the companies claim should have been paid to them as they were earned, and which they aver exceeds the amount due to the government for five per centum of net earnings since the roads were completed, under the most liberal calculation allowed by the law referred to. A controversy has existed between the government and the said corporations relative to the period at which the second provision became operative, the former insisting that it became operative in May, 1869, when the tracks of the Union Pacific and Central Pacific roads were connected, making their lines continuous; the latter contending that it did not become operative until October, 1874, when the President of the United States, upon the report of a commission appointed by him to definitely fix the date of completion of said roads, declared their completion as of that date.

The position of the corporations in this regard has been sustained by the circuit courts of the United States for the districts of California and Massachusetts. Consequently nothing can be derived in the way of repayment under the said second provision except from net earnings subsequent to said last-named date.

Here arises another dispute between the United States and said corporations. The former contends that the balance of gross earnings left, after deducting legitimate operating expenses, constitute the net earnings from which the five per centum is to be determined and paid. The corporation plant themselves on the rule laid down by the Supreme Court in *St. John* vs. *The Erie Railway Company*, 22 *Wallace*, 136, and say that all current debts and payments obligatory are to be deducted from the gross earnings in order to determine the net earnings from which said five per centum is to be paid.

Thus far the position of the corporations is sustained by the *pro forma* decision of the circuit court of the United States for the district of Iowa. If the Supreme Court of the United States should affirm this judgment of the circuit court, a great shrinkage must result in the fund for the *reimbursement* of the United States under the said second provision.

At best and most the reimbursement of the United States must, under both of said provisions of law for repayment, fall far below even the interest of the bonds issued to said several corporations in aid of the construction of their roads. Whatever remains over and above these current payments, of whatever amount they may be, must be carried on until the maturity of said bonds. This has been settled by the Supreme Court in *United States* vs. *Union Pacific R. R. Co.*, 1 *Otto*, 72.

The most liberal computation warranted by existing facts cannot place the amount which will be due to the United States from the corporations at the maturity of the said bonds, on account of principal and interest, at less than $120,000,000. As security for this vast indebtedness, or whatever other amount, be it greater or less, as intermediate contingencies may order, the United States holds a second mortgage on the roads and franchises of the said corporations. It is feared that this is more than the properties will be worth at the maturity of the bonds.

What can be done by the United States and the corporations involved so as to deal in the wisest way with this state of case? This is a question of business; not of law. These corporations are the debtors of the United States. They may prove solvent or insolvent, as we may wisely or unwisely act. The whole amount due, and to become due, to the United States may be saved, or it may be lost. The result depends much on our present action. The case we are dealing with grows worse and worse as years go by, if left to the plan of the present law.

The committee have endeavored to meet the grave and exceedingly important subject committed to them in a spirit of practical adjustment, in order to secure to the United States ultimate repayment of the full amount of advances to these corporations, without harsh or unnecessary embarrassment to them. The substitute herewith reported, presents the mature judgment of the committee, after most careful consideration of the subject.

The plan presented by the substitute is simple and yet effective. As hereinbefore shown, the principal of the bonds issued to these corporations is $55,092,192. The total interest for the term will be $99,165,945. The plan of the committee is the establishment of a sinking-fund which shall have, at the maturity of the bonds, paid off all of the interest and several millions of the principal, leaving due and unpaid at that time about $52,412,530.

It is proposed to "divide this balance into fifty semi-annual installments, one of which shall be paid on the first day of April, and one on the first day of October, in each year, with interest thereon at the same rate per annum paid by the United States on the larger part of its public debt, on the first day of January preceding the date of the payment of the several installments." In case of failure or refusal of either of the companies to pay, in accordance with the foregoing provisions, for the period of six months, then the defaulting company is to be subject to the terms of the laws now in force, and the United States may at its option proceed to collect the entire amount then due under existing provisions of law, from such company at once; or, in the alternative, retain to meet and extinguish the default, any sum due or accruing from the government on account of transportation, and otherwise enforce the obligations arising under this act, as now proposed by the committee.

It is also provided that the mortgage which the United States now holds to secure the payment by the several corporations of the principal and interest of the bonds issued in aid of the construction of said roads shall continue in force as to the semi-annual payment hereinbefore

stated, and be enlarged so as to secure performance of the new obligations arising under this act.

It is best for both the United States and the corporations that the present unsatisfactory condition of the relations existing between them should be brought to an end; and that this should be done in such manner as shall be satisfactory, complete, and lasting.

The committee believe that the plan herewith reported will accomplish this end. The United States will receive in the end every dollar of the principal and interest of the bonds issued to the corporations, and the latter can meet all of the payments required without embarrassment to their financial concerns. The fact that a part of this indebtedness is extended through a term of years is not an important one to the United States, for it is to receive interest on such payments as are deferred. It is one of the most common resorts of debtor and creditor in cases where immediate payment is impracticable. Every plan which proposes to extinguish the indebtedness of these corporations at the maturity of the bonds involves serious objections.

They require payments so large as to be necessarily embarrasing to the corporations; and on this point it seems to the committee that it would be unwise to make the payments so large as to deprive the corporations of the ability to meet all of their current obligations promptly, and to keep the roads in the highest condition of perfection and efficiency of first-class railways.

One of the greatest interests the government and the people can have in these roads is in the maintenance of a high standard of perfection, assuring rapid and safe transportation of freight and passengers over the lines.

When the roads were first projected very few persons had faith in their commercial importance. The United States desired their construction for postal and military purposes, and they have been most effective in both respects. The savings to the government in these particulars have been enormous. If the companies could have obtained an amount of transportation on government account equal to that carried before the construction of the roads, the one-half of compensation for the carriage of which the United States is entitled to withhold and apply on account of the bonds issued, it would have extinguished the whole indebtedness arising therefrom long before the maturity of the bonds, and if the companies could have maintained the rates charged by them in the beginning of the operation of their roads, the amounts accruing to the government under the two provisions of law hereinbefore cited would doubtless have been sufficient to discharge the entire claim of the United States at the maturity of the bonds.

But unexpectedly and to the surprise of everybody these roads, forming a continuous line across the continent, rapidly grew into great commercial importance. This necessitated a reduction of rates and resulted in a direct benefit to the government, for all the transportation done for it must be at the same rates charged to private parties. But it is not improbable that the commercial earnings of the roads have now reached their maximum limit. Other lines are projected and in course of construction across the continent. When completed, competition will be sharp and through rates must be reduced. The companies will then do well if they can make up from a development of local business the losses which will result from competition on through business; for this development, being largely in connection with the mineral deposits of the country, must be fostered by cheap local rates, as most of the ores are *of too low grade* to bear high rates of transportation. Add to this the *competition of local* roads for all classes of business, and it is not un-

reasonable to believe that the commercial earnings of the roads have reached their maximum.

But suppose that these considerations are mere speculations not likely to be realized, and Congress should go on and impose harsh terms upon these companies and exact from them burdensome and embarrassing payments, what will be the result? First, the corporations will resist such legislation, and litigation will follow. In this resistance in the courts the companies may be successful in the future as they have been in the past. Then whatever Congress may have done will go for nothing. But suppose the companies should fail in their resort to the courts, and be required to comply with harsh terms imposed and to make the embarrassing payments exacted, what must follow?

If not restrained by competition an increase of rates is the inevitable result. Who can be benefited by this? Surely not the public, for they are the patrons of the road. Surely not the government, for it must pay the same rates that are charged to private parties. Suppose competition prevents an increase of rates. What will follow? Most naturally financial embarrassment and an inability to discharge the onerous burdens imposed. This surely will not tend to better the chances of the government for reimbursement. Is it not best to avoid all of these contingencies by making a fair, safe, reasonable business-like adjustment of the whole case? One which will be accepted by the corporations concerned, and at the same time secure absolutely the entire claim of the government? To save over $120,000,000 to the public Treasury is worth an earnest effort.

To do this in a way which will induce the hearty co-operation of the public debtors is better than to adopt a mode which shall excite their resistance. This is the plain practical business path for Congress to tread. The committee believe that the substitute herewith reported will accomplish all that they claim for it, and ask for it the favorable consideration of the Senate.

The practical operation of the plan proposed in this bill is illustrated by the following statements:

The United States bonds issued to the two companies are:

To the Union Pacific Railroad Company, principal		$27,236,512
Add thereto 30 years' interest, at 6 per cent		49,025,721
Principal and interest due at maturity		76,262,233
To the Central and Western Pacific Railroad Companies	$27,855,680	
Add thereto 30 years' interest, at 6 per cent	50,140,224	
Principal and interest due at maturity		77,995,904
Or together, total sum paid and to be paid by the United States		154,258,137
The average date of maturity of the bonds as appears from calculations of the Treasury Department is given as of July 1, 1898, (see note to page 25, report No. 440, House of Reps., 44th Congress, 1st session).		
Add to the above 27 months interest to October 1, 1900, at 6 per cent		7,437,446
Sum on Treasury ledgers to be liquidated		161,695,583
Deduct repayments by one-half compensation for services rendered up to and including March 31, 1878, estimated: *		
For the Union Pacific Company	$6,000,000	
For the Central Pacific Company	3,000,000	
Or together		9,000,000
Balance to be provided for under this plan		152,695,583

* The amounts standing to their credit on the Treasury books, as of January 1, 1878, are $5,134,103.84 and $2,208,327.71, respectively; in addition to which there are $——— and $——— of unadjusted accounts, and claims are pending for large sums alleged to be due prior to and subsequent to those already audited, which would carry the aggregate far above this estimate. *The exact figures* are not material to this calculation.

There is retained in the Treasury, under the act of March 3, 1873, one-half the compensation for government services, amounting to a large sum, which, under the decision of the Supreme Court, is due and payable to the railroad companies, and which it is proposed shall still be held in the Treasury and turned over as a nucleus of the sinking-fund. This sum, like the foregoing, cannot at present be determined with accuracy by reason of so large a proportion of disputed or unadjusted accounts. It is believed to be about one million dollars for each company on January 1, 1878, to be increased by what shall accrue from the same sources, to March 31, 1878. If it should fall short of that sum, it is required to be made up to that sum presently.

The committee have the calculation of an expert as to the working of a sinking-fund so constituted, and have ascertained that "a sinking-fund, commencing with $1,000,000, in hand April 1, 1878, and semi-annual payments thereto of $500,000 (the first being made October 1, 1878), with three per cent. semi-annual accumulations thereon, would amount, October 1, 1900, the date of the last payment (for each company) to $50,141,526; or, taking the two companies together, the amount which will have accumulated will be at least $100,283,053; or two-thirds of the total amount which will have been paid out of the United States Treasury by the date when all the bonds have been redeemed, leaving a balance to be liquidated in the manner described of $52,412,530.

Of this balance upon the above estimate (and the actual figures will not vary far from it), there would be due from the Union Pacific Company $23,797,636, and from the Central Pacific $28,614,894.

Dividing these sums into 50 installments, in the manner proposed, would require from the former company a semi-annual payment of a principal sum of $475,953; and from the latter company of $572,298 together with interest from October 1, 1900, accrued on the entire unpaid principal sum, at whatever rate per annum the government may be paying on the greater part of the public debt on the 1st day of January next preceding each payment.

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45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 126.

IN THE SENATE OF THE UNITED STATES.

MARCH 11, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 561.]

The Committee on Pensions, to whom was referred the bill (S. 561) granting a pension to William H. Nims, having had the same under consideration, respectfully report:

That Nims was pensioned at the rate of $18 per month for the loss of his nose and right eye from shell-wound. His claim for increase has been rejected, because his disabilities do not disqualify him for the performance of any manual labor, in order to entitle him to the next highest rate of pension.

He was originally pensioned at $15 per month, which was subsequently increased to his present rate of $18. There is no evidence presented to the committee to show that his disabilities have increased since he was placed on the roll at the present rate.

As the claimant is now enjoying the highest rate of pension recognized by law for his disability, the committee recommend that the bill do not pass.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 127.

IN THE SENATE OF THE UNITED STATES.

MARCH 11, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 3104.]

The Committee on Pensions, to whom was referred the bill H. R. 3104, have had the same under consideration, and report:

That a bill giving Mrs. Kate Louise Roy, widow of Lieut. Col. James P. Roy, United States Army, an increase of pension, passed both branches of the Forty-fourth Congress, but, failing to reach the President in time for his signature, did not become a law.

The committee recommend the passage of the bill.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 128.

IN THE SENATE OF THE UNITED STATES.

MARCH 11, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 871.]

The Committee on Pensions, to whom was referred the petition of William Emerson, late a private in Company A, First Regiment Massachusetts Volunteers, report:

That Emerson entered the service of the United States on the 23d day of May, 1861, as a private in Company A, First Regiment Massachusetts Volunteer Infantry, and was discharged October 31, 1862, on certificate of disability, which states that he was unfit for duty by reason of a gunshot wound in the right shoulder, which he received at the battle of Bull Run on the 29th day of August, 1862, producing a compound comminuted fracture of the acromion process, the fracture probably extending into the glenoid cavity, and for which he was granted a pension at $8 per month. September 22, 1873, he applied for an increase, which was refused by the Pension Office.

His military service, and the fact that he received the wound for which he was discharged while in the line of his duty, is fully established by record evidence.

The nature and extent of his disability is set forth in the certificate of Dr. Jones, examining surgeon, under dates of December 13, 1862, and August 20, 1863, who finds gunshot wound in right shoulder and estimates the rate as "total."

September 12, 1873, the board of examining surgeons at Boston, Mass., certify that his disability had not increased, but that the former rate was insufficient, and fix the rate at $\frac{12}{18}$, equivalent to $12 per month.

Dr. A. W. McKinney, a practicing physician of Kinsley County, examined the soldier and finds gunshot wound of the right fore-arm, ball entered in front and passed through neck of humerus, considerable sloughing, atrophy of arm, the right measuring two inches less than the left, adhesion of muscles and ligaments causing partial anchylosis, partial but retarded motion of shoulder backward and forward, but cannot extend arm at right angles.

Petitioner states that he is unable to perform any manual labor.

The committee regard his disability as equivalent to the loss of an arm at or above the elbow, and recommend the passage of the accompanying bill for his relief.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 129.

IN THE SENATE OF THE UNITED STATES.

MARCH 11, 1878.—Ordered to be printed.

Mr. BAILEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 873.]

The Committee on Pensions, to whom was referred the petition of Hannah Street, widow of John William Street, asking that her name and the names of her children be placed on the pension-rolls, beg leave to report:

That it appears that John William Street, a slave, the property of one Furguson, who lived in Bourbon County, Kentucky, was mustered into the military service of the United States on the 30th day of September, 1864, at Lexington, Ky., and was enrolled on the same day in Company B, One hundred and seventeenth Regiment United States Colored Infantry. At the time of his enlistment he was a healthy person; but, afterward, while in the service and in the discharge of his duty as a soldier, sickened, and died in hospital at Fortress Monroe, Va., on the 22d November, 1864. The deceased was lawfully married to Hannah Street, the petitioner; and the issue of this marriage was two children, to wit, Nancy, now sixteen years of age, and Mary, now nearly fourteen years of age.

The committee recommend that the name of the petitioner and her youngest child shall be placed on the pension-roll, and that the accompanying bill be passed.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 130.

IN THE SENATE OF THE UNITED STATES.

MARCH 11, 1878.—Ordered to be printed.

Mr. BAILEY, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 874.]

The Committee on Pensions, to whom was referred the petition of Alfred Richardson, asking that his name be placed on the pension-rolls, have had the same under consideration, and beg leave to report:

That it is shown that the petitioner was enlisted in the Army of the United States on the 6th August, 1862, and continued in the service until mustered out on the day of , 1865. That on the 6th March, 1865, while in the line of his duty, he was severely injured by an explosion of gunpowder, and by reason of the injury thus received is now permanently disabled and unable to earn a livelihood. The committee, therefore, recommend that the prayer of the petitioner be granted and his name be inscribed upon the pension-roll, and that the accompanying bill be passed.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 131.

IN THE SENATE OF THE UNITED STATES.

MARCH 11, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 535.]

Theodore Gardner, late sergeant of the First Kansas Battery, asks that his present pension of $4 per month be increased to $8 per month.

Gardner was pensioned by special act of the Forty-fourth Congress for hernia, contracted while in the service. In his original declaration he alleges hernia only, while the medical evidence which supports his claim shows double hernia.

Hernia of the right and left side is established by Dr. Fuller, examining surgeon, and by Drs. Mottram and Huson.

He also files an affidavit that he was ignorant of the fact that it was necessary to allege double hernia, thinking that "hernia" would sufficiently describe his disability, and now asks that he be pensioned for the injury shown by the medical testimony in his case.

The application for increase cannot be allowed by the Commissioner because the present rate is fixed by a special act, and as the disability is clearly established, the committee recommend the passage of the bill.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 132.

IN THE SENATE OF THE UNITED STATES.

MARCH 12, 1878.—Ordered to be printed.

Mr. RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 394.]

The Committee on Military Affairs, to whom was referred the bill (S. 394) to place the name of Daniel H. Kelly upon the muster-roll of Company F, Second Tennessee Infantry, together with the petition of Delilah Kelly, widow of Daniel H. Kelly, praying for the relief provided by the bill, have had the same under consideration, and submit the following report:

This case was fully examined by the Committee on Military Affairs of the Forty-fourth Congress, first session, and a report made thereon by Mr. Logan, then chairman, as follows:

Mr. LOGAN submitted the following report, to accompany bill S. 685:

The Committee on Military Affairs, to whom was referred the petition of Delilah Kelly, having had the same under consideration, submit the following report, which was submitted in the Forty-third Congress to the same petition, and recommend the passage of the accompanying bill:

[Senate report No. 378. Forty-third Congress, first session.]

MAY 22, 1874.—Ordered to be printed.

Mr. LOGAN submitted the following report, to accompany bill S. 841.

The Committee on Military Affairs, to whom the petition of Delilah Kelly was referred, having had the same under consideration, submit the following report:

This is the petition of Delilah Kelly, who claims to be the widow of Daniel H. Kelly, deceased, late a private of Company F, Second Regiment Tennessee Volunteers. The evidence shows that deceased enlisted in the military service of the United States about December 1, 1861, at Couche's Gap, Tenn., under Capt. David Fry; that while on their way, in Lee County, Va., the command was attacked by a large force of rebels, and after a hard fight, continuing from two o'clock till dark, the deceased, the captain, and several others were taken prisoners. The recruiting-papers were in the hands of deceased, who had been made orderly-sergeant, and, by direction of Captain Fry, were destroyed the night after their capture, on which account no return was ever made of the enlistment of deceased. The deceased was sent to the rebel prison at Richmond, where he died.

The facts in this case are testified to by Captain Fry and one Thomas Davis, both of whom were taken prisoners with deceased. The particulars are stated minutely, and so clearly as to satisfy the committee of their truthfulness; and the signature of Captain Fry is verified by the War Department.

The committee, being fully satisfied of the justness of this claim, recommend the passage of the accompanying bill.

A careful examination of the record and proofs filed in this case show that the favorable report heretofore made by Mr. Logan, quoted above, was proper and just, and that the relief sought ought to be granted.

Your committee therefore recommend the passage of the bill.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 133.

IN THE SENATE OF THE UNITED STATES.

MARCH 11, 1878.—Ordered to be printed.

Mr. RANDOLPH, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 455.]

The Committee on Military Affairs, to whom was referred the bill (S. 455) for the relief of Patrick Sullivan, have had the same under consideration, and submit the following report:

It appears that Patrick Sullivan, a citizen of Wisconsin, was commissioned by Governor Harvey, of that State, a first lieutenant in the Nineteenth Regiment of Wisconsin Volunteers, on the 8th of January, 1862, with authority to recruit men for said regiment, with the understanding, as was usual in recruiting volunteers for the war for the suppression of the rebellion, that should he recruit the necessary number of men he should be made a captain. Thereupon he began recruiting for said regiment, and on February 8, 1862, had succeeded in recruiting 64 men, rendezvoused at Fox Lake, Wis. On the 8th of February, 1862, he received orders from Colonel Sanders, commanding said regiment, to bring his recruits into camp at Racine, Wis., which order he obeyed, paying all expenses of subsistence and transportation from his private purse, the funds for which he had realized from the sale of his home, the only piece of property he owned.

Upon delivering his 64 recruits into barracks at Racine, as ordered, not having a full complement of men to entitle him to a captaincy, but having sufficient for a first lieutenancy, he left those he had recruited in charge of his orderly sergeant and went out in search of additional men, returning in two weeks with eight more, sufficient, if accepted, to secure his commission as captain.

When he arrived at barracks at Racine with his said additional eight men, he found that, in his absence, his 64 recruits had all been distributed to fill other companies, and had been duly mustered in the service by Captain Trowbridge, mustering-officer. Upon demanding an explanation of this extraordinary proceeding, he was informed that a commission as lieutenant had been obtained for one Tuckerman, and that said Tuckerman had been mustered into service, during his absence, in his place. He then demanded to be mustered in as a first lieutenant, which the mustering-officer refused, on the ground that the regiment had then full complement of officers. And so, after all his arduous services and large expenses, notwithstanding his commission from the governor of the State, Sullivan was left out in the cold, without a command, and nothing to show in return.

Smarting under this cruel treatment, and yet firm in his patriotism, it appears Sullivan proceeded at once to Chicago, and there enlisted as a private soldier in the Third Board of Trade Regiment, in Captain Marks's company, was transferred to the Eighty-second Regiment Illinois Volunteers, went to the front, and rendered honorable service. He was severely wounded in the battle of Chancellorsville, lay on the field three days, robbed of his papers and commission and his watch and money, and was finally picked up by the Confederates, carried into shelter, and his left leg amputated.

Six days thereafter he was returned to the Federal lines, sent to hospital, where, after his recovery, he was honorably discharged the service, and is now a pensioner on account of the loss of his leg.

Owing to the fact that all his papers and accounts were lost on the battle-field of Chancellorsville, where he lay severely wounded, he is unable to produce any memoranda or vouchers of his expenses paid in recruiting the seventy-two men referred to, and therefore the exact amount of such expenses cannot be definitely stated. But he estimates the same as follows:

For subsisting 64 men at an average of 40 days each, at 50 cents per day...	$1,280 00
Transportation paid at half-rates, Fox Lake to Milwaukee, at $1.25	80 00
Transportation of same from Milwaukee to Racine.....	64 00
Expenses of travel through three counties, Dodge, Little and Big Green, gathering men, with incidentals of all kinds.....	300 00
Paid for use of rendezvous, fuel, &c.....	125 00
Petitioner's services 60 days, at $2	120 00
Total expended	1,969 00

Considering the difficulties surrounding recruiting men in the far West, traveling from place to place where intercommunication was not easy, gathering a man here and a man there, transporting and subsisting them until they could be brought into quarters, a perplexing condition of affairs well known to all who have had experience in such matters, the account of the petitioner does not seem unreasonable nor extravagant. At the time Sullivan recruited these men, everything in the nature of subsistence and other incidental expenses was high, and it is undeniably the fact that men were hard to obtain. The Union forces had suffered great reverses, and going to war, with all its attendant risks, separation from family and home ties, and abandonment of business pursuits, was by no means a pleasurable matter. On the contrary, it was, perhaps, the gravest of all grave incidents of human life.

After having, at his own expense, succeeded in raising the necessary complement of men and delivered them in barracks, it was Sullivan's right to have been mustered either as captain of a company, or as a first lieutenant, under his commission from the governor of the State. Your committee regard the action of depriving him of this right as utterly indefensible, if not criminal. The product of his toil and expense was taken from him by the muster of his men into other companies, securing commissions for officers who had no part or parcel in recruiting them, and he was literally turned into the street beggared, his little home, which he had sold, lost to him, and left utterly without redress.

Notwithstanding this cruel treatment, his patriotism never flagged. His enlistment as a private soldier and subsequent grievous wounding and loss of his left leg at Chancellorsville attest his merit, and show, as your committee believe, that he was actuated by higher motives than the mere aggrandizement of a commission. The facts are proved by accompanying papers, and the only question to be determined is the *amount* which petitioner should be paid by way of reimbursement for

his outlay in this behalf. The amount charged for his individual services, to wit, $2 per day, is far less than the pay and emoluments of a first lieutenant, the rank which he was by commission entitled to hold. The gross amount, so far as your committee is advised, is rather under than in excess of the ordinary expenses of recruiting, subsisting, transporting, and rendezvousing sixty-four men under the then existing circumstances.

The premises considered, your committee conclude that the claim of Patrick Sullivan is predicated upon justice; that he was wrongfully and illegally deprived of his muster under his commission; and that he is entitled to be reimbursed for the sum expended by him in so recruiting to a reasonable amount. Inasmuch as he cannot furnish an itemized account of the said expenses, except by estimate, this owing to the loss of his papers aforesaid, your committee recommend that he be paid the round sum of $1,500 in full settlement thereof, being a deduction of $469 on the amount provided by the bill, this by the way of compromise, and without in any way impugning or questioning the fairness of the items estimated by him.

Your committee, therefore, report the accompanying amended bill and recommend passage of the same.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 134.

IN THE SENATE OF THE UNITED STATES.

MARCH 12, 1878.—Ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 800.]

The passage of the accompanying bill for the relief of the heirs of Maj. D. C. Smith was recommended by this committee and the Military Committee of the House of the Forty-fourth Congress, in consonance with the favorable reports of General Cockrell, and Mr. MacDougall, of the House committee.

Copies of these reports are attached and made part of this report. I concur, and recommend that a favorable report be again made by this committee.

In the Senate of the United States, March 13, 1876.—Ordered to be printed.

Mr. COCKRELL submitted the following report, to accompany bill S. 548:

The Committee on Military Affairs, to whom was referred the bill (S. 548) for the relief of the heirs of Maj. D. C. Smith, have duly considered the same, and submit the following report:

Maj. D. C. Smith was a paymaster in the United States Army; was a gallant, efficient, and meritorious officer. On October 27, 1864, Maj. D. C. Smith, in company with several other paymasters, left Memphis, Tenn., on board of the steamer "Belle of Saint Louis," for Saint Louis. At Randolph, Tenn., this steamer started to land and was boarded by some eight or ten guerrillas, while others from the shore began firing into the steamer. The guerrillas on board undertook to force the engineer and officers of the boat to land.

Majors Buler and D. C. Smith took their revolvers and approached the guerrillas on board and began to fire and were fired upon, and Major Smith was mortally wounded and died; Major Buler was also mortally wounded. Their gallant conduct enabled the steamer to be saved, and thus the government property on board the steamer was also saved. Paymaster-General Alvord reports the accounts of Maj. D. C. Smith as follows, to wit:

His final accounts show that at the date of his death he was indebted to the United States	$284 64
From over-additions in his accounts	50 00
	334 64
He is entitled to credit for pay from October 1 to 28, 1864	146 85
For short additions	21 50
	168 35
Leaving balance due the United States	166 29

I inclose a copy of his chief paymaster's report, showing the very gallant manner in which he met his death defending the property of the United States. I therefore most cheerfully recommend the passage of this bill as amended, as I consider it a very just and meritorious one.

The amendment suggested is to strike out "*thirty*" and insert "twenty," so that the bill as amended will read, "one hundred and sixty-six dollars and twenty-nine cents," instead of one hundred and sixty-six dollars and thirty-nine cents.

Your committee recommend the passage of the bill with the amendment suggested.

[Forty-fourth Congress, first session, House report No. 735.]

Mr. MACDOUGALL, from the Committee on Military Affairs, submitted the following report (to accompany bill S. 548):

The Committee on Military Affairs, to whom was referred Senate bill No. 548, *having had the same under consideration, report as follows:*

Maj. D. C. Smith was killed by guerrillas on board the steamer Belle, on the Mississippi River, on the night of October 27, 1864, while gallantly defending the property of the United States in his charge. Had he lived and had the settlement of his own accounts, it is clear that he would have been allowed the amount claimed in the accompanying bill. The committee, therefore, recommend the passage of the bill.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 135.

IN THE SENATE OF THE UNITED STATES.

MARCH 12, 1878.—Ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 902.]

The Committee on Military Affairs, to whom was referred the petition of Carl Jussen, late adjutant Twenty-third Regiment Wisconsin Volunteers, having had the same under consideration, report as follows:

It appears from the following report, prepared during the last Congress by the present chairman of the committee, to whose examination a bill for the relief of the applicant had been submitted, that a favorable report should be made, and the committee hereby recommend that that report stand as the report of the present committee:

The Committee on Military Affairs, to whom was referred the bill (S. 798) for the relief of Carl Jussen, late adjutant Twenty-third Regiment Wisconsin Volunteers, have had the same under consideration, and beg leave to submit the following report:

This is a bill to pay Carl Jussen, late adjutant Twenty-third Regiment Wisconsin Volunteers, the difference of pay between that of sergeant-major of infantry and adjutant of infantry from August 3, 1863, to December 12, 1863, which was disallowed by the accounting-officers of the government upon the ground that department regulations forbid the recognition of any person as a commissioned officer prior to the date he receives his commission and enters upon duty with his command.

The record shows that Jussen enlisted as a private in the Twenty-third Regiment Wisconsin Volunteers, August 14, 1862, was made sergeant-major of said regiment, and on August 2, 1863, the position of adjutant became vacant. Thereupon he was detailed to perform the duties of adjutant, entered upon the same, and was recommended to the governor of Wisconsin for commission therefor by the colonel of his regiment. The then governor of Wisconsin, his excellency Edward Salomon, commissioned said Jussen in due form as first lieutenant and adjutant of said regiment, to date from August 2, 1863; but, being in the field, the receipt of the commission was delayed until December 13, 1863, when he was mustered as such at Algiers, La., December 19, 1863.

During the period between August 3 and December 12, 1863, the said Jussen performed all the duties and incurred all the responsibilities of the position of first lieutenant and adjutant, was subjected to the incidental expenses of his rank, and held accountable for property and duty in accordance therewith. Under various precedents established by Congress, notably the report of Senator Abbott on bill (S. 527) for the relief of William F. Scott, Forty-first Congress, second session, Report No. 51, it has been held that an officer so promoted, performing the duties and incurring the responsibilities of his advanced rank, is entitled to pay therefor when so performed in the field, without being compelled to suffer loss for the time necessarily consumed in sending for and receiving back his commission from the governor of his State, to the end that he may be duly mustered.

This case certainly comes within the rule. Jussen was recommended by his colonel for promotion from the rank of sergeant-major to that of first lieutenant and adjutant to fill a vacancy, and entered at once upon the discharge of his duties as such. It was the duty of the colonel of the regiment to fill the vacancy, and in this manner. So soon as the governor of Wisconsin could be notified from the remote field of military

operations he issued his commission to Jussen, to date from August 2, 1863, the da which the vacancy occurred, and when Jussen entered upon the discharge of his d under orders from his colonel. The delays incident to the proceeding prevented sen's muster until the commission was received, and for the time between his ass tion of the duties of adjutant to fill said vacancy, and the date of the reception commission, he asks the difference of pay between that of sergeant-major and lieutenant and adjutant. The principle involved in the act of July 26, 1866, als ers this case. Your committee, therefore, are of opinion that the claim is merito and recommend the passage of the bill.

It appears from the above that Jussen actually performed the duti adjutant from August 3, 1863, to the 12th December of the same His commission from the governor covers the same period. There an actual vacancy when he was appointed. He only received pa sergeant-major for the period above mentioned.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 136.

IN THE SENATE OF THE UNITED STATES.

MARCH 12, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 754.]

The Committee on Pensions, to whom were referred Senate bill No. 754, and accompanying petition asking that a pension be granted to Richard O'Neale, late an officer of the United States Navy during the war of 1812, having examined all the papers in the case, find no evidence whatever to sustain the claim, except the statement of the petitioner, the Navy Department being unable to find any record of service, the committee, therefore, feel constrained to submit an adverse report, and ask that the bill and petition be indefinitely postponed.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 137.

IN THE SENATE OF THE UNITED STATES.

MARCH 12, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Samuel Faulkner, a soldier of the war of 1812, asking an increase of pension, having examined the same, find no special circumstances in the case beyond such as are common to most of the pensioners of his class, to wit, age and infirmity.

In the absence of a general law affording relief to all pensioners similarly circumstanced, they are unwilling to make this case the subject of special legislation, and therefore ask to be relieved of the further consideration of said petition.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 138.

IN THE SENATE OF THE UNITED STATES.

MARCH 12, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Angeline Raish, mother of Oliver Raish, late private Company G, Seventeenth Wisconsin Volunteers, asking to be allowed arrears of pension, having examined the petition and accompanying papers, find that the petitioner is now in receipt of a pension of eight dollars per month, commencing from the date of filing the last essential evidence by which the claim was established. She claims, however, that a prior claim was filed in the year 1868, and presents the affidavits of sundry parties stating that these papers were deposited in the post-office at that date, and an agent employed by her states that the Pension Office acknowledged the receipt of the application; but as no such acknowledgment has been produced, and as the records of the Pension Office furnish no evidence of the fact that any application for pension was ever made at that time, the committee feel constrained to submit an adverse report, and ask that the further consideration of the petition be indefinitely postponed.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 139.

IN THE SENATE OF THE UNITED STATES.

MARCH 12, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom the petition of O. P. Shiras and sundry citizens of Dubuque, Iowa, was referred, who pray for an increase of pensions to the officers and soldiers of the war of 1812, having duly considered the same, would respectfully ask that the further consideration of the same be indefinitely postponed.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 140.

IN THE SENATE OF THE UNITED STATES.

MARCH 12, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom the petition of Richard T. Horner, formerly a soldier of the war of 1812, was referred, find that no record or parol evidence can be found establishing the fact of service, and, though the petition is very numerously signed by citizens of Delaware County, Indiana, who bear testimony to the general good character and necessitous condition of the petitioner, the committee cannot, in the absence of all proof of service, report favorably. They ask to be relieved from the further consideration of the petition.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 141.

IN THE SENATE OF THE UNITED STATES.

MARCH 12, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the memorial of Catharine Middleton, widow of a soldier of the war of 1812, and the petition of Arcadius Pettingill, of Wayne, Maine, a soldier of the war of 1812, each asking to be allowed a pension, find that these applicants are provided for by Senate bill No. 17, which has recently been enacted into a law.

The committee therefore asks to be discharged from their further consideration.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT. No. 142.

IN THE SENATE OF THE UNITED STATES.

MARCH 12, 1878.—Ordered to be printed.

Mr. SPENCER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 740.]

The Committee on Military Affairs, to whom was referred the bill (S. 740) to authorize the Secretary of War to relinquish and turn over to the Interior Department certain parts of the Camp Douglas military reservation, in the Territory of Utah, have had the same under consideration, and submit the following report:

This bill, which, by its terms, authorizes the Secretary of War to relinquish and turn over to the Department of the Interior, for restoration to the public domain, a certain portion of the Camp Douglas military reservation, in the Territory of Utah, is for the relief of Mr. Charles Popper, a citizen of the United States, resident in said Territory of Utah.

From the record filed in the case, it appears, by Executive Document No. 97, House of Representatives, first session Forty-fourth Congress, that Mr. Charles Popper settled in the Territory of Utah, in the year 1864, and that he purchased of certain herders of cattle, then settled upon lands now comprised within the military reservation of Camp Douglas, their possessory rights thereupon, together with certain improvements, consisting of a log cabin and corral, for the sum of $800. Immediately thereafter he erected a slaughter-house and corral on the said land, at an outlay of $2,000, dug a ditch of a quarter of a mile in length, laid pipes from a certain spring contiguous to the slaughter-house, at an additional cost of $500. In the year 1865, he erected a cut-stone rock building thereon, at the cost of $14,000, and expended in other improvements, such as out-houses, stables, &c., not less than $10,000 additional, making the total outlay upon said land the sum of $26,500. He has occupied said premises and held peaceable possession thereof ever since.

At this time (1865) the land was unsurveyed, and no land-office had been established by the government in Utah Territory. On September 3, 1867, however, and prior to any survey, the extension of the Camp Douglas military reservation was ordered to be established by the President, and was so announced in General Order No. 66, headquarters Department of the Platte, December 17, 1869. It will be observed that this reservation was established in 1867, but it does not appear to have been definitely located nor surveyed until 1869. Therefore, prior to this survey, Mr. Popper was unapprised that the land upon which he had settled and made these large and expensive improvements was in any wise embraced within a military reservation, and the survey of

1869 was his first information in the premises, after he had occupied the same, and paid city, county, and Territorial taxes thereon for nearly four years.

It appears from the sworn statement of General George R. Maxwell, late register of the United States land-office at Salt Lake City, Utah Territory, that Mr. Popper took necessary steps, so soon as the land-office was established, to protect his claim, and procure a title to the lands occupied by him, and made proof of his occupation thereof, his purchase from a previous owner in 1864, and the erection by him of other improvements thereon at an outlay of large sums of money, which papers were all forwarded to the General Land Office at Washington, with the recommendation that Mr. Popper be allowed to purchase the same. But this purchase, as of necessity, could not be permitted, because of the subsequent extension of the said military reservation.

Upon the occupation of said reservation by the military authorities, the fact of Mr. Popper's occupation of a portion thereof, together with a statement of the improvements erected thereon by him, was brought to the attention of the Secretary of War, under the general practice adopted of forcing all squatters to remove from military reservations when the same are established or extended.

The following is the correspondence, through the various military channels, in reference to Mr. Popper's case, until Lieut. Gen. P. H. Sheridan, of date Chicago, December 28, 1875, upon a review of the entire premises, recommends *that the government do relinquish so much of the northwestern corner of the reservation as embraces the apparently just claim of Mr. Charles Popper :*

HEADQUARTERS CAMP DOUGLAS, UTAH TERRITORY,
December 11, 1874.

SIR: In compliance with your instructions, dated headquarters Department Platte, Omaha, Nebr., September 8, 1874, to remove all trespassers from the reservation at Camp Douglas, I have the honor to submit the following report:

Upon investigation the following trespassers were found:

First. Mrs Ann Elmer has a small two-story house, basement built of red sandstone, upper story of adobe, of little value, situated near the southern line of the reservation, and built before the extension. Mrs. Elmer was notified to remove said building; she has not complied, and it will be taken down as soon as men can be spared for that purpose.

Second. Frame building near northwest corner of reservation, occupied by Mrs. ———; built by mistake on the reservation; notice given, and the house has been removed.

Third. Old brick mills and kiln near west line of reservation, of little value; notice given and complied with.

Fourth. A small adobe house near west line of reservation, owned and occupied by Stephen Pope and wife—very old people—who evidently have been deceived in the purchase of their supposed little property. Upon investigation of their papers, I find that the lot was certified by the Salt Lake authorities to Christian E. Norholm, March 24, 1867. No transfer has been made by Norholm to John Baswell, who made a conveyance to Pope, which was recorded March 24, 1869. No action taken in this case, as I would deem it cruel to dispossess these old people at once.

Fifth. Two temporary buildings (board) for ice-houses, half-way between post and west line of reservation, owned by John Heil, who claims to have had verbal permission from Lieut. Col. H. A. Morrow; notice to vacate given; action suspended until petition herewith, marked A, can be considered by the department commander. I would recommend that he be permitted to use his ice-houses until next fall, and then required to vacate, as he has been to considerable labor and expense.

Sixth. Extensive and valuable improvements near north line of reservation (see plat inclosed, together with papers in the case, Nos. 1, 2, 3, 4), belonging to Charles Popper, beef-contractor.

These improvements consist of a large sandstone building, suitable for the manufacture of soap and candles; three frame buildings, cattle and pig pens, and considerable fencing, as set forth in Mr. Popper's declaration, and which has been verified by a personal examination in connection with the papers submitted. I have made diligent inquiry and find these improvements were made as stated, previous to the extension of the reservation, as declared by

the President of the United States September 3, 1867, and that Charles Popper has an equitable claim for the favorable consideration of the proper authorities.

I have the honor to be, most respectfully, your obedient servant,

JNO. E. SMITH,
Colonel Fourteenth Infantry, Commanding.

To the ASSISTANT ADJUTANT-GENERAL,
Headquarters Department of the Platte, Omaha, Nebr.

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebr., December 24, 1874.

Respectfully forwarded to headquarters Military Division of the Missouri. Attention is invited to indorsements on the within inclosures.

E. O. C. ORD,
Brigadier-General, Commanding.

[Second indorsement.]

HEADQUARTERS MILITARY DIVISION MISSOURI,
Chicago, December 31, 1874.

Respectfully forwarded to the headquarters of the Army.

In absence of the Lieutenant-General.

R. C. DRUM,
Assistant Adjutant-General.

[Third indorsement.]

HEADQUARTERS OF THE ARMY,
Saint Louis, January 5, 1875.

Respectfully forwarded to the Secretary of War.

W. T. SHERMAN,
General.

[Fourth indorsement.]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 19, 1875.

Respectfully submitted to the Secretary of War, inviting attention to accompanying brief and report.

E. D. TOWNSEND,
Adjutant-General.

[Fifth indorsement.]

WAR DEPARTMENT,
April 12, 1875.

Respectfully returned to the Adjutant-General.

The views and action of General Ord in all of the within cases, as well as his recommendation regarding the appointment of a board of officers, not stationed at Camp Douglas, to examine into the merits of any claim of Charles Popper to further compensation for improvements, are approved.

The board will be ordered by the department commander.

WM. W. BELKNAP,
Secretary of War.

Received back Adjutant-General's Office April 13, 1875.

[Sixth indorsement.]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 15, 1875.

Respectfully returned, through headquarters of the Army, to the commanding genera Department of the Platte, for appropriate action, inviting attention to the decision and orders of the Secretary of War, indorsed hereon.

These papers to be returned to this office with report of action and proceedings of board of officers.

By order of the Secretary of War:

E. D. TOWNSEND,
Adjutant-General.

Received back Adjutant-General's Office June 10, 1875.

[Seventh indorsement.]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, June 11, 1875.

Respectfully returned to the Secretary of War, with proceedings of a board of officers, convened by orders from headquarters Department of the Platte, dated May 7, 1875, in the case of Mr. Charles Popper.

E. D. TOWNSEND,
Adjutant-General.

2993 Adjutant-General's Office accompanying.

[Eighth indorsement.]

WAR DEPARTMENT,
June 19, 1875.

Respectfully returned to the Adjutant-General of the Army, calling attention to the fact that General Crook's order convening the board of officers does not appear to have been exactly conformable to the directions of the Secretary of War. The Secretary of War approved of the views and recommendations of General Ord. These were as follows: * * * "I therefore disapprove of any commission to purchase land being given this man, because of the various privileges and favors granted him of occupying gratis a valuable and choice location, well supplied with a never-failing spring. * * * I recommend that a board of officers, not stationed at Camp Douglas, be ordered to examine into the merits of any claim of Mr. Popper to further compensation for improvements, and after assessing the rent which the land could have brought the United States on Mr. Popper, at current rates, the difference, if any, between the actual present worth of Mr. Popper's original improvements, not the farm or appurtenances thereto, and what Mr. Popper would have had to pay as rent to private parties, be allowed him."

Let the papers be returned to the general commanding the Department of the Platte with directions to reconvene the board of officers for the purpose of carrying out the foregoing recommendations of General Ord. Congress alone can permit Mr. Popper to acquire a title to any part of the reservation. While this may prove, after all, the best settlement of the claim, it is not the mode heretofore approved by the Secretary of War, and for which the services of the board of officers were particularly required.

WM. W. BELKNAP,
Secretary of War.

Received back Adjutant-General's Office June 24, 1875.

[Ninth indorsement.]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, June 25, 1875.

Respectfully returned through headquarters of the Army to the commanding general Department of the Platte, who will cause the board of officers to be reconvened in accordance with the instructions of the Secretary of War, contained in preceding indorsement (8th).

These papers to be returned as heretofore directed.

By order of the Secretary of War:

THOMAS M. VINCENT,
Assistant Adjutant-General.

[Tenth indorsement.]

HEADQUARTERS OF THE ARMY,
Saint Louis, June 28, 1875.

Respectfully transmitted, through headquarters Division of the Missouri.

By command of General Sherman:

WM. D. WHIPPLE,
Assistant Adjutant-General.

[Eleventh indorsement.]

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
Chicago, June 29, 1875.

Respectfully returned to the commanding general Department of the Platte.

By command of Lieutenant-General Sheridan:

R. C. DRUM,
Assistant Adjutant-General.

[Twelfth indorsement.]

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebr., November 13, 1875.

Respectfully returned to Col. I. N. Palmer, Second Cavalry, president of the board of officers convened by paragraph 6, Special Order No. 55, and reconvened per paragraph 2, Special Order No. 123, current series, from these headquarters (copy inclosed).

By command of Brigadier-General Crook:

GEO. D. RUGGLES,
Assistant Adjutant-General.

[Received back December 15, 1875, with proceedings indorsed, and certified to Colonel Palmer, Second Cavalry, president of the board, for completion, December 16, 1875; back, with correction made, December 23, 1875.]

[Thirteenth indorsement.]

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebr., December 23, 1875.

Respectfully returned, through headquarters Military Division of the Missouri, to the Adjutant-General of the Army, with new proceedings in the case, which are approved.

GEORGE CROOK,
Brigadier-General Commanding.

[Fourteenth indorsement.]

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,
Chicago, December 28, 1875.

Respectfully returned to the Adjutant-General of the Army, recommending that the government relinquish so much of the northwestern corner of the reservation as embraces the apparently just claim of Mr. Charles Popper.

This is, in my judgment, the best way to settle this question, especially as that portion of the reservation is not necessary to the wants of the public service at Camp Douglas.

P. H. SHERIDAN,
Lieutenant-General Commanding.

[Received back Adjutant-General's Office, December 31, 1875, with three inclosures' twelve indorsements.]

[Fifteenth indorsement.]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, January 4, 1876.

Respectfully returned to the Secretary of War, inviting attention to thirteenth and fourteenth indorsements hereon.

E. D. TOWNSEND,
Adjutant-General.

The merits of Mr. Popper's claim to the lands in question were investigated by a board of officers, convened under authority of the War Department, consisting of Col. I. N. Palmer, Second Cavalry; Col. F. F. Flint, Fourth Infantry, and First Lieut. George O. Webster, adjutant Fourth Infantry, which board assembled in pursuance of the following order:

[Special Order No. 55.—Extract.]

HEADQUARTERS DEPARTMENT OF THE PLATTE,
Omaha, Nebr., May 7, 1875.

* * * * * * * * * * *

V. A board of officers, to consist of Col. I. N. Palmer, Second Cavalry; Col. F. F. Flint, Fourth Infantry, and First Lieut. George O. Webster, adjutant Fourth Infantry, will assemble at Camp Douglas, Utah Territory, at 10 o'clock a. m., on Thursday, May 13, 1875, or as soon thereafter as practicable, to examine into the merits of any claim of Mr. Charles Popper to further compensation for improvements on the military reservation of Camp Douglas, and to investigate generally and thoroughly, and report fully, upon the subject of the occupation of part or parts of the said reservation by the said Mr. Charles Popper or his agents.

* * * * * * * * * * *

By command of Brigadier-General Crook:

GEO. D. RUGGLES,
Assistant Adjutant-General

After taking testimony and going through various deliberations, with the usual formalities and routine incident to such proceedings, the board found for the merits of Mr. Popper's claim, but suggested that the only way he could obtain proper relief would be by act of Congress, which body would either direct a redrawing of the lines of the Camp Douglas reservation, so as to exclude the land in question, or appropriate money to pay a just and reasonable price for the improvements which were on the land in question at the time it was enveloped in the military reservation, as re-established in 1867. But the board also found that the land in question, *were it not for the improvements made upon it by Mr. Popper, would be of no value to the United States or to any private party as a place to rent.* Hence, the improvements being of no use to the government, by reason of the land being of no value to the government for any purpose, it would follow that Congress could not justifiably appropriate money to pay for improvements valueless to the government. The remedy, therefore, suggested by Lieutenant-General Sheridan was accepted by the Department of War, and the Secretary submitted to the House of Representatives, of date January 20, 1876, the following communication, transmitting the papers which have in part been quoted herein by your committee.

[44th Congress, 1st session. House Ex. Doc. No. 97.]

Letter from the Secretary of War transmitting correspondence relating to the military reservation at Camp Douglas, Utah.

WAR DEPARTMENT, *January* 20, 1876.

The Secretary of War has the honor to submit to the House of Representatives the following communication:

The military reservation of Camp Douglas, Utah, as ordered by the President September 3, 1867, included certain valuable improvements made in good faith by Charles Popper, among which were a slaughter-house and a stone-built soap-factory. The improvements are in a hollow near the northwest corner of the reservation. The matter has been investigated by a board of officers, and the following recommendation of Lieutenant-General Sheridan meets the approval of the Secretary of War: "That the government relinquish so much of the northwestern corner of the reservation as embraces the apparently just claim of Mr. Charles Popper. This is, in my judgment, the best way to settle this question, especially as that portion of the reservation is not necessary to the wants of the public service at Camp Douglas." The act of June 22, 1874, concerning certain reservations in Arizona, may be suggested as a precedent in point of form.

Attention is also invited to a claim by Stephen Pope for improvements included within the same reservation. In this case a board of officers has recommended the payment by the government of $150 for any losses sustained by Pope in consequence of removal from the reservation, but the Secretary of War concurs in the opinion reported by the Acting Quartermaster-General—

"That the payment * * * recommended by the board * * * cannot be made without the sanction of Congress. The case appears to be similar to that of Matthew Palen and others, for property taken by the government in the extension of the Camp Mohave reservation, favorably settled by act approved February 19, 1873."

Claims of similar character in the experience of this department have been not infrequent. With a view to some examination of them when presented, General Order No. 74, Adjutant-General's Office, November 2, 1869, provided:

"Hereafter no squatter or citizen will be permitted to enter or reside upon a military reservation, unless he be in the employment of the Government, or permitted by the department commander. * * * Where parties are already in possession, with valuable improvements, the department commander will cause an investigation to be made, and submit each case separately for the decision and orders of the Secretary of War."

It is believed, however, that compensation for the loss of such improvements cannot, in general, be properly made without the special sanction of Congress, except in cases arising within the old Territory of Oregon, where, by section 9 of the act of February 14. 1853, being "An act to amend an act entitled 'An act to create the office of surveyor-general of the public lands of Oregon,'" &c., it is provided as follows:

"That if it shall be deemed necessary, in the judgment of the President, to include in any *such* reservation the improvement of any settler made previous to such reservation, it shall *in such case* be the duty of the Secretary of War to cause the value of such improvements

to be ascertained; and the amount so ascertained shall be paid to the party entitled thereto out of any money in the Treasury not otherwise appropriated."

In accordance with the general policy of encouraging the settlement of the public domain, this act recognizes the justice of making compensation to settlers who have not yet acquired title to their lands, but who have been unexpectedly deprived of the fruits of their labor by the action of the government. It is respectfully submitted to the consideration of Congress whether some legislative provision, similar to that contained in the above-recited act of Congress relating to the former Territory of Oregon, ought not to be made applicable to military reservations everywhere.

The papers relating to the above-mentioned claims of Charles Popper and Stephen Pope are herewith transmitted.

WM. W. BELKNAP,
Secretary of War.

The board of officers convened for investigation and report on Mr. Popper's claim, found among other facts, as stated in the following extract from their proeeedings:

Col. John E. Smith, Fourteenth Infantry, commanding at Camp Douglas, gives it as his opinion that Mr. Popper's property is in no way necessary for military purposes. It is some distance from the main road leading from Camp Douglas to Salt Lake City. The slaughter-house is in no way a nuisance to the post; a considerable portion of the ground is unfit for any purpose, being the side of a mountain, or broken up in ravines or ditches, and is so located that it will probably never be required for any public purposes.

Although the order convening the board in this case does not direct that an opinion be expressed, it is believed that it was intended that it should do so, and it is the opinion of the board that Mr. Popper should be permitted to acquire a title to any portion of the land designated in the accompanying map as Popper's property, which was not included in the first reservation of one mile square, and was brought into the reservation, as declared by the order of the President, September 3, 1867.

But, as it is considered that it would be for the best interests of the service for the government to have possession of the lower half of the southernmost portion of Mr. Popper's land, it is recommended that if any permission is accorded to Mr. Popper to purchase, that such southern half be retained, giving him, Popper, an equal amount of land immediately to the westward of the northern half of such southern portion. The board inclose a map showing the proposed division of the "quarter-section" referred to. (Map is dated Salt Lake City, Utah Territory, May 15, 1875.)

Mr. Popper has declared himself satisfied with such an arrangement as the one just referred to.

From this, it would appear that it would be for the best interests of the government to have possession of the lower half of the southernmost portion of Mr. Popper's land, allowing Mr. Popper an equal amount of land immediately to the westward of the northern half of such southern portion, a proposition to which Mr. Popper appears to have acceded. The map referred to and forwarded by the board, showing the proposed division of the quarter-section, is on file in the office of the Clerk of the House of Representatives, and the description of the land, as stated in the bill, containing $151\frac{81}{100}$ acres, conforms to and agrees with the map so transmitted by the said board of officers to the Secretary of War. Hence, so far as this matter is concerned, the land proposed by the bill to be turned over by the Secretary of War to the Secretary of the Interior, for the purpose of allowing Mr. Popper to enter the same at government rates, in view of the equities of his claim, is the land recommended by the said board of officers, in part by substitution as aforesaid, and embraces the improvements erected by Mr. Popper, and which is, as found by the said board, not needed for military purposes.

It appears affirmatively by the record, that Mr. Popper has never exercised the right of pre-emption conferred by existing laws, and therefore still retains the privilege. Your committee find, the premises considered, that Mr. Popper's settlement on said land was *bona fide*, and that at the time of his said settlement he could have been in no wise advised of the probability of its being included within any prospective extension of the military reservation. He had made large outlay in the way of erecting improvements prior to any action taken by the authori-

ties to set the land aside for military purposes, and had been assessed for and paid taxes upon the same, also prior to the establishment of the military reservation. He has always occupied the premises and retained peaceable possession of the same. The land being not needed for military purposes and the improvements of no value to the government, it would seem proper to afford him the relief he seeks, especially since the whole matter has been formally inquired into and reported upon by the military authorities, through a board consisting of officers of the highest character, whose action, together with the conclusions of the Lieutenant-General of the Army, and the recommendations of the Secretary of War, ought to be conclusive upon Congress.

The committee therefore recommend the passage of the bill.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 143.

IN THE SENATE OF THE UNITED STATES.

MARCH 13, 1878.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 426.]

The Committee on Claims, to whom was referred the bill (S. 426) for the relief of the Masonic Hall Company of Atlanta, Ga., have duly considered the same, and submit the following report:

Your committee referred the bill to the Secretary of the Treasury, and called upon him for certified copies of the original papers on file in his department relating to the said claim, and in response received from him copies of all the papers in said claim, and among them the following account, to wit:

No. 22.

The United States, to Masonic Hall Company, Dr.

April 16, 1866.—For rent of (3) three rooms in Masonic Hall building, at Atlanta, Ga., from November 1, 1865, to February 30, 1866, inclusive, being (4) four months, at $100 per month	$400 00
And for rent of two (2) rooms from March 1 to March 30, 1866, inclusive, being one month, at $75 per month, all of which were used as offices and quarters for employés	75 00
	475 00

I certify that the above account is correct and just, that the services were rendered as stated, and that they were necessary for the public service, and have been accounted for in my report of persons and articles hired for the time above charged.

E. J. FARNUM,
Captain and Assistant Quartermaster.

The Quartermaster-General, to whom the vouchers were referred, makes the following report:

WAR DEPARTMENT,
QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., February 23, 1872.

To the THIRD AUDITOR OF THE TREASURY,
Washington, D. C.:

SIR: The inclosed certified account of Masonic Hall Company of Atlanta, Ga., for rent in 1865 and 1866, stated at $475, is respectfully transmitted for action of the accounting-officers. The service has been reported to this office, as required by regulations. The attorney was advised, February 15, 1867, that under existing orders of the War Department claims of this character arising in insurrectionary States during the war cannot be paid.

Very respectfully, your obedient servant,
By order Acting Quartermaster-General.

M. LUDINGTON,
Quartermaster, U. S. A.

The following affidavit, properly authenticated, also appears, with an additional certificate by Captain Farnum:

STATE OF GEORGIA, *Fulton County:*

Personally appeared before me, John L. Hopkins, a notary public, acting in and for the county and State aforesaid, George Sharp, jr., of Atlanta, same county and State, who, being duly sworn, says that some time in or about the month of October, 1865, he received a letter from E. J. Farnum, captain and assistant quartermaster United Army, requesting him to rent for said Farnum some rooms in the city of Atlanta, suitable for the offices of his department in said city, and that, in pursuance of such request, he, this deponent, did rent, for and on behalf of said Farnum, for such offices as aforesaid, from the Masonic Hall Company of Atlanta, three rooms in the Masonic Hall building in said city, with the understanding that the rent to be paid for said rooms should be assessed by a board of officers in the usual manner, and he, this deponent, further says that he acted entirely in said matter on behalf of said Farnum, and that he is in no degree interested in the said Masonic Hall Company.

GEO. SHARP, JR.

Sworn before me this 5th day of February, 1867.

JNO. L. HOPKINS,
Notary Public.

OFFICE OF ASSISTANT QUARTERMASTER,
Atlanta, Ga., February 15, 1866.

I certify that I have occupied as office and quarters three rooms in Masonic Hall building at Atlanta, Ga., from November 1, 1865, to February 15, 1866, as per my "report of persons and articles hired" for the time above mentioned. The amount of rent to be paid, as assessed by board of officers, is $100 per month.

E. J. FARNUM,
Captain and Assistant Quartermaster.

The action of the Treasury Department is shown by the following decision of the Auditor, among the said papers:

TREASURY DEPARTMENENT,
THIRD AUDITOR'S OFFICE, *March* 21, 1872.

A. L. Merriman, esq., presents for payment a certified account in favor of Masonic Hall Company, Atlanta, Ga., for rent of rooms in Masonic Hall building at Atlanta during the years 1865 and 1866, stated at $475.

The account having originated in an insurrectionary district, and during the late war of the rebellion, is barred from settlement by the accounting-officers of the Treasury by the act of Congress of February 21, 1867.

The entire claim is, therefore, disallowed.

ALLAN RUTHERFORD, *Auditor.*

The act of February 21, 1867 (vol. 14, U. S. Stat. at Large, page 397) provides that the act of July 4, 1864, "shall not be construed to authorize the settlement of any claim for supplies or stores taken or furnished for the use of or used by the armies of the United States, nor for the occupation of or injury to real estate, nor for the consumption, appropriation, or destruction of or damage to personal property by the military authorities or troops of the United States, where such claim originated during the war for the suppression of the Southern rebellion in a State or part of a State declared in insurrection by the proclamation of the President of the United States dated July 1, 1862, or in a State which by an ordinance of secession attempted to withdraw from the United States Government." On April 2, 1866, the President, by proclamation, declared that the insurrection in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, and Mississippi was at an end.

Under said act of February 21, 1867, the departments have declined to pay any claims originating in the insurrectionary States from the beginning of the insurrection to the date of the President's proclamation declaring the insurrection at an end, whether such claims arose under contracts or otherwise. And thus all persons whose just claims are

based upon an express contract between themselves and the proper officers of the government, made within the limits of the insurrectionary States within the period above named, are forced to appeal to Congress for relief.

This claim arose out of a contract between the claimant and the proper quartermaster, was duly signed, certified, and reported by said quartermaster, and claimant is certainly entitled to the amount specified in the said contract, $475.

Your committee recommend the passage of the bill.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 144.

IN THE SENATE OF THE UNITED STATES.

MARCH 13, 1878.—Ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 1888.]

The Committee on Claims, to whom was referred House bill No. 1888, *entitled "A bill for the relief of Macon, Ga.," have considered the same, and submit the following report:*

The bill is accompanied and supported by the sworn petition of W. A. Huff, mayor of Macon, and by other evidence.

It is alleged and set forth in this petition:

1st. That upon the 24th day of June, 1865, said city of Macon issued its bonds to the amount of $25,000 (which amount was increased from time to time afterward), in denominations of 25 cents, 50 cents, $1, $5, $10, and $20, bearing interest at the rate of 2 per cent. per annum.

2d. That said bonds so issued were in the form or similitude of bank-bills, and were used by the city of Macon in paying its various obligations, and were paid out by the city from time to time from the month of June, 1865, to the month of May, 1873, and that said bonds were used as a local circulating medium.

3d. That from the month of January, 1867, to the month of May, 1873, both inclusive, the city of Macon was assessed by the United States internal-revenue assessor for that district an internal-revenue tax of one-twelfth of 1 per cent. each month upon the average amount of these bonds thus used and paid out by the city of Macon.

4th. That this internal-revenue tax amounted to the sum of $6,141.07, and the same was assessed under section 9, act July 13, 1866 (14 Statutes at Large, page 184; Revised Statutes, section 3408).

The city of Macon paid the tax so assessed regularly each month without protest or objection until the 1st of June 1873, when it refused any longer to pay such tax. On the 29th of January, 1874, the city filed its claim before the Commissioner of Internal Revenue for the refunding of the tax so paid, to wit, the sum of $6,141.07. It appeared from the records in the office of the Commissoner of Internal Revenue that the sum actually paid by the city of Maicon as such tax was $5,633.50.

The provision of the statute under which this tax was assessed reads as follows:

"There shall be assessed a tax of one-twelfth of one per centum each month upon the average amount of circulation issued by any bank, association, corporation, company or person, including as circulation the certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed, or on deposit for said bank; and

an additional tax of one-sixth of one per centum each month upon the average amount of such circulation issued as aforesaid beyond the amount of 90 per centum of the capital of any such bank, association, corporation, company, or person."

This section of the statute was considered by Attorney-General Stansbery in a case that arose upon certain certificates issued by the State of Alabama. His opinion may be found on page 176 of volume 12 of Opinions of the Attorneys-General.

The Attorney-General holds in this opinion that the term "corporation," as used in this section of the statute, applies to a *private* and not to a *public* or *political* corporation. The Attorney-General uses this language:

> Now, if it was the purpose of Congress not only to include such corporations as are not private in their foundation, but to embrace other corporations usually called *public* corporations, certainly that purpose would have been expressed; and if it was intended to include a State, why not say a State without any circumlocution; and if it was intended to include a city, why not name it? But here a State or a city is not named, nor is the usual term of description, to wit, a *public* corporation, used to embrace them.

The Attorney-General also holds in this opinion that the term "person," as used in this section of the statute, does not include a public corporation, although it may include a private corporation. He refers to what is now section 1 of the Revised Statutes, in which it is provided that "the word person may extend and be applied to partnerships and corporations," but holds that the corporations referred to in this section are private and not public or political corporations.

Under this construction given to the act by the Attorney-General the Secretary of the Treasury held that this tax was improperly assessed against the city of Macon; but he held further, that under section 3228 of the Revised Statutes, which provides that "All claims for the refunding of any internal tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, must be presented to the Commissioner of Internal Revenue within two years next after the cause of action accrued," he could refund only the taxes which had been collected within two years immediately preceding the time when the claim for the refunding of the tax was presented to the Commissioner of Internal Revenue. In other words, he held that section 3228 of the Revised Statutes constituted a statute of limitation. In harmony with this construction the Secretary of the Treasury refunded to the city of Macon the sum of $1,454.53, being the sum collected within two years next preceding 29th day of January, 1874, when the claim for refunding was first filed with the Commissioner of Internal Revenue, leaving the sum of $4,178.97 still in the Treasury of the United States.

As bearing upon this claim, your committee refer to section 3583 of the Revised Statutes, which reads as follows:

> No person shall make, issue, circulate, or pay out any note, check, memorandum, or token, or any obligation for a less sum than $1, intended to circulate as money or to be received or used in lieu of lawful money of the United States; and every person so offending shall be fined not more than $500, or imprisoned not more than six months, or both, at the discretion of the court.

The city of Macon issued bonds (so called) of a less denomination than one dollar, to wit, of the denominations of twenty-five cents and fifty cents, which were intended to circulate as money, and to be received and used in lieu of lawful money of the United States.

Now, if the term person, as used in this section, were held to include

a public corporation like a city, as it doubtless does include a *private* corporation, then the city of Macon would be liable to a penalty of $500 for each of its so-called bonds of a less denomination than $1 issued by it. But the Attorney-General having decided that the word person as used in these statutes does not include a public corporation, and the Treasury Department having adopted this construction, your committee feel it their duty to acquiesce in this construction.

Your committee therefore hold that this tax was improperly and illegally assessed against the city of Macon. The only remaining question left for decision is whether the bar of the statute of limitations as fixed by section 3228 of Revised Statutes shall be removed.

The only authority the city of Macon had for issuing these so-called bonds was an ordinance passed by the city council May 23, 1865, authorizing the mayor to issue the bonds of the city to the amount of $50,000, payable two years after date, bearing interest at the rate of 2 per cent. per annum.

There was no authority in the charter of the city nor in any statute of the State for the issue of these bonds; hence on the 11th of December, 1871, an act of the legislature was obtained whereby all bonds theretofore issued by the mayor and council of the city of Macon were legalized. Bonds were issued by the city subsequent to said act of December 11, 1871. There was no authority for their issue, nor has their issue since been legalized.

The city of Macon has had the benefit of this circulation, amounting to $50,000, since the month of May, 1865, and the whole amount of tax paid on such circulation, less amount refunded, is $4,178.97.

The object and purpose of the statutes to which we have referred, imposing a tax on circulation, doubtless were to enable the United States Government to furnish the paper circulating medium, and that such paper circulation should be either greenbacks or national-bank notes.

No person or private corporation can, after paying the Federal taxes thereon, profitably issue its own notes or bonds to be used as circulation, but it seems there is no law to prevent a public corporation from issuing its notes or bonds for circulation, to be used and taken in lieu of the lawful money of the United States to any amount.

The city of Macon has had the benefit of this circulation; it paid the tax levied thereon without protest or objection. If there were strong equities in favor of the claim now made by the city, we would feel like recommending the removal of the bar of the statute of limitations and the payment of the claim, but there are no such strong equities in favor of the city, and we, therefore, cannot recommend that the bar of the statute be removed and the claim paid.

We recommend that the further consideration of said bill be indefinitely postponed.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 145.

IN THE SENATE OF THE UNITED STATES.

MARCH 13, 1878.—Ordered to be printed.

Mr. SPENCER, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 909.]

The Committee on Military Affairs, to whom was referred the letter of the Secretary of War (Ex. Doc. No. 2, Forty-fifth Congress, second session), recommending an amendment to section 3736 of the Revised Statutes, so as to authorize the Secretary of War to accept an absolute gift or grant of land, when the same is necessary for military purposes and the gift unincumbered with provisions, have had the same under consideration, and submit the following report:

The Secretary of War calls attention to the restrictive provisions of section 3736 Revised Statutes, as follows, to wit:

"WAR DEPARTMENT,
"*December* 6, 1877.

"The Secretary of War has the honor to report to the United States Senate that the San Felipe Agricultural, Manufacturing, and Irrigation Company, of the county of Kinney, State of Texas, has executed a deed donating to the United States Government two hundred acres of land in Kinney County, as a site for a military post.

"The military authorities recommend the site as suitable and necessary for military purposes; but, inasmuch as section 3736 of the Revised Statutes provides that 'no land shall be purchased on account of the United States except under a law authorizing such purchase,' a special act of Congress is necessary to authorize the acceptance of the deed in question; the enactment of such a law is, therefore, respectfully recommended.

"Within the last few years there have been several cases where the establishment of a military post became necessary, and a donation of the necessary land was offered to the government, but, by reason of the statute quoted above, the department could take no action until the matter was reported to Congress and a special act passed. In such cases the restriction imposed by the statute appears to be unnecessary, in view of the fact that no expense is incurred by the government, and only a title reported perfect by the Attorney-General is accepted. It is, therefore, respectfully recommended that section 3736 of the Revised Statutes be amended so as to authorize the acceptance by the Secretary

of War of an absolute gift or grant of land, provided the same is necessary for military purposes and the gift is unincumbered with provisions.

"Respectfully submitted.

"GEO. W. McCRARY,
"*Secretary of War.*

"To the PRESIDENT *of the United States Senate.*"

Your committee recognize the propriety of the suggestions made by the Secretary of War, but deem it better for the interests of the government to meet each case with a special act, than to alter or amend section 3736 of the Revised Statutes, which provides "that no land shall be purchased by the United States except under a law authorizing such purchase." Your committee therefore report a special act covering the premises and recommend its passage.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 146.

IN THE SENATE OF THE UNITED STATES.

MARCH 13, 1878.—Ordered to be printed.

Mr. MORGAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 910.]

The Committee on Claims, to whom was referred the petition of the book-agents of the Methodist Episcopal Church South, a corporation at Nashville, Tenn., have had the same under consideration, and submit the following report:

The Confederate forces having occupied Nashville, Tenn., for a short period during the late civil war, evacuated that place after the surrender of Fort Donelson. Within three or four days after that event General Buell, with his army, reached Edgefield, a village separated from Nashville by the Cumberland River. There he was met by the mayor of Nashville, who was accompanied by a delegation of citizens and some members of the city council.

When General Buell was informed of the object of their mission, which was to inform him of the condition of Nashville, and to invite him to occupy and protect the city, he expressed gratification at the proceeding, and assured the deputation "that protection to both persons and property of all peaceable citizens would be fully extended by the Army of the United States," and he requested the mayor so to inform the people of Nashville. Whereupon the mayor issued the following proclamation:

PROCLAMATION.

The committee representing the city authorities and the people have discharged their duty by calling on General Buell at his headquarters in Edgefield on yesterday. The interview was perfectly satisfactory to the committee, and there is every assurance of safety and protection to the people, both in their persons and in their property. I therefore request that business be resumed, and all our citizens, of every trade and profession, pursue their regular vocations.

The county elections will take place on the regular day, and all civil business will be conducted as heretofore; and the commanding general assures me that I can rely upon his aid in enforcing our police regulations. One branch of business is interdicted—the sale or giving away of intoxicating liquors. I shall not hesitate to invoke the aid of General Buell in case the recent laws upon this subject are violated.

I most earnestly call upon the people of the surrounding country, who are inside of the Federal lines, to resume their commerce with the city, and bring in their market supplies, especially wood, butter, and eggs, assuring them that they will be fully protected and amply remunerated.

R. B. CHEATHAM, *Mayor.*

This proclamation was issued on the 26th of February, 1862. On the same day General Buell issued his proclamation, as follows:

GENERAL ORDERS, No. 13.

HEADQUARTERS DEPARTMENT OF THE OHIO,
Nashville, Tenn., February 26, 1862.

The general commanding congratulates his troops that it has been their privilege to restore the national banner to the capital of Tennessee. He believes that thousands of hearts in every part of the State will swell with joy to see that honored flag reinstated in a position from which it was removed in the excitement and folly of an evil hour; that the voice of her own people will soon proclaim its welcome, and that their manhood and patriotism will protect and perpetuate it.

The general does not deem it necessary, though the occasion is a fit one, to remind his troops of the rule of conduct they have hitherto observed and are still to pursue. We are in arms not for the purpose of invading the rights of our fellow-countrymen anywhere, but to maintain the Union and protect the Constitution under which its people have been prosperous and happy. We cannot look with indifference on any conduct which is designed to give aid and comfort to those who are endeavoring to defeat those objects; but the action to be taken in such cases rests with certain authorized persons, and is not to be assumed by individual officers and soldiers. Peaceable citizens are not to be molested in their personal property. All wrongs to either are to be promptly corrected and the offenders brought to punishment. To this end all persons are desired to make complaint to the immediate commander of officers or soldiers so offending, and if justice be not done promptly, then to the next commander, and so on until the wrong is redressed. If the necessities of the public service should require the use of private property to public purposes, compensation is to be allowed. No such appropriation of private property is to be made, except by the authority of the highest commander present; and any other officer or soldier who shall presume to exercise such privilege shall be brought to trial.

Soldiers are forbidden to enter the residences or grounds of citizens upon any plea without authority.

No arrests are to be made without the authority of the commanding general, except in case of actual offense against the government; and in such cases the fact and circumstances will immediately be reported in writing to headquarters through the intermediate commanders.

The general reminds his officers that the most frequent depredations are those which are committed by the worthless characters who straggle from the ranks on the plea of being unable to march; and where the inability really exists, it will be found in most instances that the soldier has overloaded himself with useless and unauthorized articles. The orders already published on this subject must be enforced.

The condition and behavior of a corps are sure indications of the fitness and efficiency of its officers. If any regiment shall be found to disregard that propriety of conduct which belongs to soldiers as well as citizens, they must not expect to occupy the post of honor, but may rest assured that they will be placed in position where they cannot bring shame on their comrades and the cause they are engaged in. The government supplies with liberality all of the wants of the soldier. The occasional deprivations in hardships incident to rapid marching must be borne with patience and fortitude. Any officer who neglects to provide properly for his troops, and separates himself from them to seek his own comfort will be held to a rigid accountability.

By command of General Buell.

JAMES B. FRY,
A. A. G., Chief of Staff.

Official.

J. M. WRIGHT, *A. A. G.*

From the date of the foregoing proclamation until the end of the war Nashville and the country north of that place, in Tennessee, was under the control of the Federal army, and the civil authorities, including the courts, local and Federal, were in the full and free exercise of their functions and jurisdictions. These results were the fruits of the proclamation of General Buell restoring that part of Tennessee to national authority and giving "the full measure of protection to persons and property consistent with a necessary subjection to military government.

The proclamation of Major-General Butler, when he occupied New Orleans, on the 29th of April, 1862, after announcing that the city was under martial law and the principles by which the commanding general would be guided in its administration, contains this clause of protection: "All rights of property of whatever kind will be inviolate, subject only *to the laws of* the United States.' 'In the case of The Venice, 2 Wallace,

258, the Supreme Court of the United States decides that this clause "only reiterated the rules established by the legislative and executive action of the national government in respect to the portions of the States in insurrection occupied and controlled by the troops of the Union." In the same opinion the Supreme Court says further: "The same policy may be inferred from the conduct of the war. Wherever the national troops have re-established order under national rule, the right of persons and of property have been, in general, respected and enforced. When Flag-Officer Farragut, in his first letter to the rebel mayor of New Orleans, demanded the surrender of the city, and promised security to persons and property, he expressed the general policy of the government. So, also, when Major-General Butler published his proclamation and repeated the same assurance and made a distinct pledge to neutrals, he made no declaration which was not fully warranted by that policy. There was no capitulation. Neither the assurance nor the pledge was given as a condition of surrender. Both were the manifestation of a general purpose, which seeks the re-establishment of national authority and the ultimate restoration of States, and the ultimate restoration of States and citizens, to their national relations under better forms and firmer guarantees, without any views of subjugation by conquest."

There was no formal military surrender either of New Orleans or Nashville, but in Nashville there was a formal submission of the local civil authorities to the national authority, while in New Orleans the mayor refused to give the pledge of such submission. "There was no capitulation, neither the assurance nor the pledge was given as condition of surrender," in either case. The orders of General Buell were much broader and more definite than those of General Butler. They reached to the conduct of officers and men of his army and put them under express injunctions against all interference with the property and homes of the people who would remain peaceable, and expressly provified for compensation for all property taken for public use.

Your committee are impressed with the conviction that the orders of General Buell (above copied), while in the military occupation of Nashille, which was not "illusory, not imperfect, not transient; but substantial, complete, and permanent," drew after them "the full measure of protection to persons and property consistent with a necessary subjection to military government," and that the citizens of Nashville who remained peaceable during such occupancy, and their property, cannot be regarded as remaining enemies, or their property as enemies' property, after the 26th of February, 1862, by intendment of law. They were protected against this condition by the proclamation of General Buell.

This view seems to derive much additional force from the proclamation of the President, dated August 16, 1861, in which he limits the declaration that certain States, and parts of States are in rebellion, as follows:

> Except the inhabitants of that part of the State of Virginia lying west of the Alleghany Mountains and of such other parts of that State, and other States herein before named, as may maintain a loyal adhesion to the Union and Constitution, or may be from time to time occupied and controlled by forces of the United States engaged in the dispersion of said insurgents.

The generals of the Army, including General Buell and his successors, permitted this loyal status of the people of Nashville to remain, and followed the avowed policy of the Federal Government in their dealings with them as declared in the case of "The Venice." Many houses of citi-

zens, and some of the churches were used for army purposes, but they were paid for, or quartermasters' vouchers were given for their use.

In this way, the public pledges of General Buell were faithfully observed; the people engaged freely in their business pursuits; the courts were opened and the civil administration of the laws prevailed so far as was "consistent with a necessary subjection to military government."

This condition of the national authority in Nashville, during its military occupation by the Federal Army, is satisfactorily established by the history of that property, the use of which by the army quartermasters is the foundation of this claim.

On the 24th of May, 1862, a libel of information was filed by the United States district attorney in the circuit court of the United States, to sequester, and condemn, and sell, and to confiscate the proceeds of the property, real and personal, for which the corporation called the "Book Agents of the Methodist Episcopal Church South," is claiming rent, and also compensation for such of it as was consumed in the use, or was lost, wasted, injured, or destroyed.

The record of the proceedings in said cause is appended to this report, and is marked Exhibit 1. Under a warrant of arrest issued in pursuance of the prayer of the libel on the 24th of May, 1862, the marshal of the United States arrested the property described in the libel, and indorsed the arrest on the warrant which he returned to the circuit court.

On the 3rd of June, 1862, the "Book Agents of the Methodist Episcopal Church South," by that name interposed its claim to the property arrested in the circuit court; gave security for costs; asked to be allowed to intervene for its alleged rights of property and possession, and to plead to and defend against the libel and to replevy the property so arrested and seized, and the court granted the prayer of the petitioner.

The bond to replevy the property was filed on the 4th of June, 1862, in the sum of $60,000, with two sureties.

On the 27th of June, W. R. Elliston, one of the sureties, applied to the court to be released from the bond, for the following reasons set forth in his affidavit: "He states that said co-surety (R. Abbey) has rented out some of the machinery, including a press and type, &c., to other persons without deponent's consent or knowledge, and against his wish and he fears that it will be so used that if destroyed or misused he will be liable upon his bond without his consent to the misuse. He is willing to remain liable for the forthcoming of the property, if he and his co-surety can be permitted to hold it in the state in which it was when seized in this case. But his co-surety has not so acted, and has placed a part of the property beyond his own control, where it may be destroyed and deponent made responsible for the acts of others and against his consent." These statements relate to the fact that R. Abbey, as the agent of the defendant corporation, after the property had been so replevied, had consented or acquiesced in the taking of certain presses and type, lathes, and tools for the quartermasters of the army, which were taken to the front to be used to do printing and other work for the army near its lines, then advanced far to the south of Nashville.

On the 28th of June, 1862, Justice Catron, presiding in the United States circuit court, at Nashville, after notice had been served on said Abbey, as agent, &c., heard said motion and entered the following order:

On consideration of the mat'ers founded on this affidavit, I refuse to release Wm. Elliston as a surety to this bond.

June 28, 1862. J. CATRON, *Presiding Judge.*

On the 24th of April, 1864, an amended information was filed in said cause by the district attorney of the United States, and a second seizure of the property was made or endorsed on the process. This was a seizure *pro forma* to secure regularity in the proceedings.

Answers, pleas, and demurrers were filed in the cause, as well by the said corporation as by other intervenors who were admitted to defend the suit for such interests as they claimed respectively. Issues were formed on these several pleas. Afterwards the case was continued by the United States, at the request of the Attorney-General, from term to term, until the 13th of November, 1865, when it was dismissed by the direction of the Attorney-General of the United States. The said Attorney-General says he will no further prosecute herein. And the court imposed certain costs and allowances on the defendants, and certified that there was probable cause for the seizure of the property, thereby certifying to its legality when it was made.

After General Buell entered Nashville the corporation of "book agents," &c., continued its business of publishing books, tracts, &c., and doing job work for its customers, until the property was arrested under the libel proceedings above referred to; and after the property was replevied it still continued its business. Some of its lathes, presses, types, cases, and tools suited for detached job offices, and some other machinery were taken by the quartermasters of the Army, as before stated. With this exception the property remained in the custody of the bailee, the defendant corporation, until on or about January 1, 1864, when the entire establishment, the house and all its contents, were taken possession of by Col. J. D. Donaldson, chief quartermaster of the Military Department of the Cumberland, by order of Maj. Gen'l George H. Thomas, commander in chief of the department, for the use of the Army of the United States, "as confiscable property, and so held and used until the 13th of December, 1865, when what remained of it was returned to said "book agents." The following extract from the report of the chief quartermaster of the Department of the Cumberland, dated June 30, 1865, sets forth the circumstances under which the seizure was made:

UNITED STATES PRINTING HOUSE.

"The Methodist Publishing House," confiscable property in the city of Nashville, was taken possession of in January, 1864, by order of Maj.-General Geo. H. Thomas, commanding the department, and used as a government printing-house. The operations of the establishment up to June the 30th, 1864, were given in my last annual report. During the year ending June 30, 1865, over 5,300,000 impressions were made; 4,352 forms printed; 101,900 quires of paper used; 223,000 quires of blanks furnished, at a total cost, to the United States, including pay, commutation, &c. of enlisted men, of $29,261.40; actual cost to the Quartermaster's Department, $25,456.45. (These figures are shown by the monthly reports of the officer in immediate charge of the printing-house heretofore forwarded to your office.) The details of the establishment have been under the direction of Brevet Maj. A. W. Wills, A. Q. M., who deserves great credit for its economical management. The average saving to the government, taking Cincinnati, Chicago, Pittsburgh, and Nashville prices, as shown by monthly reports heretofore sent, is 82½ per cent., though it is believed the actual saving is 100 per cent. No work of any description is allowed until a requisition is first approved at this office. At this writing it is being turned over to the "Bureau of Refugees, Freedmen and Abandoned Lands," as no longer needed for the public service. The concern merits my warmest praise, and I recommend it to your favorable notice and consideration.

The proceedings in this case of libel for confiscation were conducted with as much regularity, and with as little interruption, as if they had been instituted in a court of New York. Justice Catron presided in his circuit court at Nashville, from term to term, with as little obstruction and as little threat from the enemy as he did in the Supreme Court at Washington.

Whatever theories may be advanced, and with whatever skill they may be supported, as to the legal status of the people of Nashville, the fact remains that the national authority was actually enforced there through the national courts, and they administered the laws, local and national, so far as applicable to controversies between citizens, as completely and effectively within the territory protected by the Federal armies as could have been done in any loyal State. This condition of the country included within the operation of General Buell's orders would of itself give to the people there the same protection under the laws of the United States that is so distinctly provided for in the terms of the order, viz, "If the necessities of the public service should require the use of private property for public purposes, compensation is to be allowed."

This law of compensation declared by General Buell is the same that is found in the Constitution of the United States, and in all Stats regulating the right of eminent domain. This is not the rule that governs in cases of capture or seizure *jure belli*. In such cases the property is taken without reference to compensation. The order of General Buell also provides that "no such appropriation of private property is to be made except by authority of the highest commander present;" thus cutting off all right to make a capture of private property in Nashville after the date of the order, except on the conditions named in the order, and by the express order of the highest commander.

On the 24th of May, 1862, there was nothing in the military or political situation at Nashville, or in the condition of the people, or in the condition of the property of the book-agents' corporation, to prevent the jurisdiction of the United States circuit court from attaching upon the property of that concern, on a libel instituted to condemn it, if the property or its owners were guilty under the confiscation statutes. And when that property was seized under such proceeding, while it continued under the jurisdiction of the circuit court of the United States, it was not liable to capture by the Army. Yet it is scarcely necessary to consider this point, for the reason that the United States has never claimed ownership of this property as captured property, nor even that its seizure for the use of the military department was made *jure belli*. In both instances, when the government seized the property, first under the libel proceeding, and then under the order of General Thomas, it was seized as confiscable property. It was seized for confiscation under the penal statutes of the United States, and not as property in which the United States had acquired any interest otherwise than by virtue of those statutes.

Those statutes provide only for condemnation of the property in the courts of the United States after a trial duly had.

They furnish no authority for appropriating the property of rebels without due course of law. The army cannot enforce these statutes except in aid of the powers and proceedings of the courts. It certainly cannot exercise jurisdiction under the confiscation laws so as to oust the circuit courts of the United States of a jurisdiction acquired and exercised over property seized under their orders on libels of information.

The following records from the War Department disclose the grounds on which the seizure of the claimants' property was made by order of General Thomas:

HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
Chattanooga, Tenn., December 28, 1863.

COLONEL: It has been for a long time in contemplation at these headquarters to make an a my printing-office of the Methodist Publishing House in Nashville.

The house has been confiscated by the United States Government, and is represented as being in every way eligible for the printing of blanks and orders and the binding of the same, and by being run by the government would save from $25,000 to $30,000 per year to the government, without counting loss of time in getting work beyond the Ohio.

The major-general commanding desires that you will examine into the feasibility of the plan of using the office for doing all sorts of printing for the Army, and report upon the same.

Very respectfully,

——— ———,
Assistant Adjutant-General.

Col. J. L. DONALDSON,
United States Quartermaster, Nashville.

CHIEF QUARTERMASTER'S OFFICE,
Nashville, Tenn., January 6, 1864.

GENERAL: In obedience to the order of the major-general commanding, I have had the Methodist Book Concern in this city examined, and find it suitable for the Army printing, and have accordingly directed Capt. J. F. Isom, acting assistant quartermaster, to take possession of it for that purpose.

I am, general, very respectfully, your obedient servant,

J. L. DONALDSON,
Senior Quartermaster.

Brig. Gen. W. D. WHIPPLE, *A. A. G.*,
Chattanooga, Tenn.

HEADQUARTERS DEPARTMENT OF THE CUMBERLAND,
Chattanooga, January 27, 1864.

Lieut. Col. J. L. DONALDSON,
Senior and Supervising Quartermaster:

The major-general commanding directs that you seize the establishment in Nashville known as the Methodist Printing House, and that you prepare it as early as possible for the printing of forms and binding of books of all kinds required by this army, particularly at these headquarters, such as muster-rolls, returns, record-books for department, corps, division, and brigade headquarters.

Very respectfully, your obedient servant,

W. D. WHIPPLE,
Assistant Adjutant-General.

The letter to Colonel Donaldson, United States quartermaster, asserts that "the house has been confiscated by the United States government." Such was not the fact, however, as it had only been libeled for confiscation, and was in the custody of the court through its bailees at the time when General Thomas ordered its seizure. It is therefore clear that the United States never made a capture of this property. General Buell's order prevented it from capture and seizure, and General Thomas, whatever may have been his power over the property to withdraw the protection of General Buell's orders, did not withdraw such protection. To the reverse, he assumed that it had been confiscated by the government, and was government property, and took it into possession as such, as being "in every way eligible for the printing of blanks, orders," &c. It was not seized with reference to its usefulness in any tactical or strategic sense with reference to Army movements. Such a seizure could not oust the circuit court of the United States of its rightful custody and control of this property, and added nothing to the right or authority of the government in its disposal.

The seizure was made by the commanding general for the convenience of the civil department rather than of the Army, and to save money to the government in printing for the use of a military department and the Army. The law of military necessity did not apply, but whether or not it was applicable, the protection given by the proclamation of General Buell, by the President's proclamation, and by the custodianship of the property in the hands of the circuit court (either, and certainly all together), places this property beyond the reach of the ordinary rules which apply to enemies' property. When the government gives

such protection to property, it assumes to pay for the use of it, if any urgent necessity requires it to apply the property to the public use. Under such circumstances, the property being relieved by the act of the government from liability to military capture, the seizure of it, even if it was a military seizure made by competent authority, was an exercise of the rights of eminent domain, which is never exerted except upon the condition prescribed in the Constitution, that just compensation shall be made to the owner.

The application of this provision of the Constitution is not affected by the fact that the seizure was made by a military government. Conceding as a fact that which does not appear to be true, that civil government in Nashville at the time of the seizure of this property was not in full and effectual operation, the military government there, when it undertook to enforce the confiscation of property for the crimes of its owners, under the authority of the statutory laws of the United States, was bound also to respect the Constitution of the United States in the administration of those laws. But there should be a very clear and very grave necessity to justify the Army or a military government in taking property from the lawful custody of a court of the United States. It is to be presumed that the court would surrender the property so in its custody to the Army whenever the necessity was shown to exist, but it should never be held that when a court holds property in its custody for the adjudication of the question whether it is forfeited to the government for the crime of its owner, that the Army or a military government can take the property from the custody of the court and appropriate it to the government as confiscated property. The court alone can render judgment of forfeiture in such cases, and can alone proceed to condemn and confiscate it, and when it is proceeding to adjudicate in such a matter, and is in the full and free exercise of its lawful authority, neither prevented nor controlled by any cause from discharging its duty, no other authority can take the matter out of the hands of the court and proceed to render judgment, or declare, in any form, that the property is confiscated. Congress could not do so much, and it is not possible that a military government, while acknowledging the laws of the United States, can lawfully exercise such authority over a court of the United States.

And yet this is the precise attitude of this matter. The property was seized by order of General Thomas, the major-general commanding the department of the Cumberland, as confiscated property, while the United States was suing in its own courts for its condemnation, and it was not released by the army officers until after the suit had been dismissed and after peace had been proclaimed in Tennessee by the President, when it was "turned over to the Bureau of Refugees, Freedmen, and Abandoned Lands, as no longer needed for the public service."

Judge Catron refused to discharge a surety on the replevy bond, because the "book-agents'," &c., corporation had consented to the use of some of the property by army quartermasters, thereby holding that the bond was a valid obligation, and that the property was in lawful possession and control of its lawful bailee. His ruling was, in effect, that property in the situation of this property was not subject to the supreme control of martial law, so that the mere taking of it by a quartermaster, under the orders of a military commander, would exonerate the sureties of the bailee from responsibility for its forthcoming.

Judge Catron did not think that the taking of this property in its then situation was a taking under the law of necessity, or under the *domination* of military force to which the civil power could properly *yield, so far,* at least, as to surrender its jurisdiction over the property.

In this matter, as well as in the final disposal of the case, and especially in the order made at the request of the government to enter judgment of *nolle prosequi* in the proceedings, and in certifying to probable cause for the proceedings, so as to protect the informer against damage for an unlawful seizure, and in the imposition of costs on the claimants personally, for which execution was ordered to issue, the circuit court of the United States asserted its jurisdiction, and maintained it over this property continuously from the moment it was seized until it was released by its final judgment. It never admitted that its powers of jurisdiction during this period had been suppressed by martial law, nor that, by any lawful exercise of military force, its custody of the property had been broken. This is the more certain and plain when we recur to the fact that its jurisdiction under the libel was *in rem*, and not merely *in personam*. This is true, not only in consequence of the nature of the proceedings under which the property was seized, but also for the reason that the statutes, known as the confiscation laws, create a forfeiture of the title of the property to the United States for the offense of the owner, or for the offensive use of it by any authority, with the consent or acquiescence of the owner or his agent.

In such cases, and under such proceedings, the government simply proceeds to assert, through its judicial tribunals, its title to the property, and to dispose of it according to its laws. The jurisdiction of the circuit court did attach on the filing of the libel, and could only be exerted by the arrest of the property, which is an indispensable prerequisite of the exercise of such jurisdiction. The property was arrested under process of law in all respects regular, and the court maintained its custody of the property by express orders, until it finally decided the cause.

This cause proceeded from its beginning to its end, so far as the circuit court of the United States was concerned, just as it would have been conducted in any State not included within the insurrectionary territory.

It is difficult to perceive why the judgment is not equally conclusive, though it was rendered in Tennessee. The court found no impediment to its initiating the suit, or in the execution of its lawful process therein, in exerting its power in continuing the cause, in maintaining its authority, or in making its final orders. The United States attended regularly in court to prosecute its suit through the entire proceeding, and made no suggestion that the government had relieved the court of its jurisdiction over the property by having interposed the superior power of martial law. The government, on its own motion, continued the cause in court, thus constantly maintaining the jurisdiction of the court over the property. This jurisdiction was not released, or in any way impaired, but was rather confirmed by the fact that the court had permitted a claimant to replevy the personal chattels included in the arrest or seizure. A bond was interposed and sureties were provided for the return of the property to answer the judgment to be rendered in the cause. Such a bond has no other effect than to change the custody of the property from the marshal to the special bailees. They hold it for the court, and must surrender it to the court when required, and are subject to punishment for their refusal to do it. They are liable also for injury and loss to the property while in their custody. Their custody is the custody of the court, and while it lasts the property is *in gremio legis*. The court may require the bailees to pay rent for the property while it is in their custody, if it is finally

condemned. In every respect, therefore, the circuit court of the United States at Nashville had the authority to proceed to final judgment upon every question touching the ownership of this property and its confiscable character. It did proceed to judgment on that subject, at the instance of the United States, and it must be now considered that the United States did not own this property at the time that its Army seized it in January, 1864, or else it waived and solemnly abandoned its right.

The government has admitted by its refusal to prosecute the suit, and the court has decided, that this property never was forfeited to the United States by the crime of its owners.

The judgment of *nolle prosequi* rendered at the instance of the government, in which costs are imposed, is not merely an act of amnesty. It is a judgment upon its confession, either that it never had the right to condemn this property or that it was unwilling to assert its right to condemn it, and waived it on condition of the payment of costs by the intervenor. And it must have been for this reason that Justice Catron entered the order that there was probable cause for the prosecution, but not actual cause. The United States is conclusively bound by that judgment, so that none of its courts can now condemn the property, and so that Congress should not assume that it should have been condemned. This view of the matter seems to dispose of it so far as the right of the parties to the property is concerned.

A final judgment of discharge of the property seized for confiscation is as conclusive of the title as a judgment of condemnation would be, because such a judgment binds the courts. Chief Justice Marshall, in Williams *vs.* Armroyd (7 Cranch, 432), says:

> It appears to be settled in this country that the sentence of a competent court, proceeding *in rem*, is conclusive with respect to the thing itself, and operates as an absolute change of property. By such sentence the right of the former owner is lost, and a complete title given to the person who claims under the decree. No court of co-ordinate jurisdiction can examine the sentence. The question, therefore, respecting its conformity to general or municipal law can never arise, for no co-ordinate tribunal is capable of making the inquiry.

The military authorities never seized the property as "*captured or abandoned property*," but as confiscable property; and in June, 1865, by order of General Thomas, it was "turned over to the Bureau of Refugees, Freedmen, and Abandoned Lands, as no longer needed for the public service."

In any view of the case the property remained the property of the "book-agents," &c., corporation, and the ownership was not changed by either the legal or military custody to which it was subjected.

The Government of the United States under its laws, duly enforced through the judicial department, arrested and seized as its own the property of the claimant, and put it in charge of the claimant under bond and security, as the bailee of the court which became its custodian, and under the further pledge of the laws and the court that the property should be returned to the claimant at the end of the suit if the government should not make good its assertion of title. And the government, with its military arm, took the property out of the custody of the law, in which it was held to answer judicial proceedings for its confiscation, for the purpose of enforcing the same statutory right of confiscation by the mere order of a military commander; used it for its own purposes, in which use it was greatly damaged; and returned a part of it to the claimants, much of it having been lost, consumed, and wasted in the use that was made of it. This property having been seized by *the court*, and also by the Army, for the purpose of confiscation, and

not in the assertion of a title by capture, conquest, or other mere right of war, we are relieved from further inquiries into the questions whether the general commanding the Department of the Cumberland could lawfully have captured the property situated as this was, and could have used, converted, or destroyed it at his pleasure; and could also have deprived the claimant of the right of just compensation for it under the Constitution. The property of a citizen in the custody of a court of the United States, as confiscable property, cannot be taken out of that custody, by the executive power, *for the same purpose*, without imposing on the government the duty of paying for the use of it, and for such damage or loss as the owner may sustain by reason of such intrusion upon the property as well as upon the authority of the court.

The testimony in support of this claim is the best and most satisfactory the nature of the case admits of, except that the witnesses have not been subjected to cross-examination. The witnesses are well known, or well vouched for, as men of good standing—the agent, the head clerks in the different departments, engineers, master-mechanics, book-keepers, and other men employed in the house, each testifying to matters under his own supervision. The values of the different kinds of property taken are necessarily inexact, being estimates made up by experts from such data as existed—books, invoices, &c. But there was no sufficient opportunity of taking an inventory of the property itself, the actual possession being taken with but three hours' notice in the bad weather of midwinter. It was a very large printing establishment, and run by steam-power. It was amply supplied with machinery, presses, type, material for stereotyping, lathes, and tools, and had a large stock of paper suited for book and job printing, besides much other material for binding books, and the many appliances which belong to such establishments. It was the largest printing and publishing house south of New York, except the Government Printing Office in Washington. Its capacity is shown by the very large results set forth in the report of the quartermaster of the Department of the Cumberland above copied. Over 5,300,000 impressions were made in one year, and 4,352 forms were printed, 101,000 quires of paper were used, and 223,000 quires of blanks were furnished in the same period. The cost of all this work to the government was only $29,261.40. The average saving to the government, taking Cincinnati, Chicago, Pittsburgh, and Nashville prices, was 82½ per cent. The actual saving was fully 100 per cent., according to the quartermaster's estimate. The committee understand this statement in the report of the quartermaster to mean that the government gained a clear profit in the use of this printing house and machinery, and of the material found there, of the entire amount of the work turned out. This was a large sum of money, all of which the claimant could have made if the property had been allowed to remain in its possession. Besides this, the presses and machinery were used so constantly, and were run at such a high rate of speed, as greatly to damage them. A large amount of books in the store-rooms were lost or seriously damaged. The stores were taken to house the quartermaster's property, and the claimant was driven out.

While there is not seen by your committee any necessity—certainly, no pressing emergency—that this printing establishment should have been taken possession of and conducted by the Army, there was very great and apparent necessity that it should be used for the benefit of the Army, for there was no other property in the country nearer than the northern cities that would be at all adequate to those necessities; and that it was of great service to the Army is abundantly apparent. Gen-

eral Clinton B. Fisk, of New York, who was intimately conversant with this property and the use the Army made of it, states as follows:

ATLANTIC AND PACIFIC RAILROAD COMPANY,
Drexel Building, New York, April 9, 1874.

MY DEAR SIR: In response to your favor of the 8th instant, I beg leave to say that I was assigned to duty in Nashville, Tenn., in April, 1865, and was in command of the district of Tennessee a part of that and the following year. I was also assistant commissioner of the Freedmen's Bureau, and gave the order (under direction of my superior officer) for the restoration of the property of the Methodist Episcopal Church South to its rightful owners. I was familiar with the facts presented in your memorial to Congress, asking consideration of your claim, and do not hesitate to say that your representations are correct, and the demands of the church you plead for are reasonable. I hope the Committee on War-Claims will recommend such award in this case as justice to the multitude of men, women, and children interested in the claim demands. The committee is composed of eminently fair-minded, just, and able men, who will doubtless give this important matter such consideration as it deserves.

Yours, truly,

CLINTON B. FISK,
Late Brevet Major-General U. S. Volunteers.

To Rev. R. ABBEY,
Washington, D. C.

A portion of the building was torn down to arrange for more convenient access to the printing-rooms. Job-offices, consisting of types and presses, were taken away and not returned, and so of lathes and other tools.

Your committee are informed, through the agents of the claimant, that it is willing to accept $288,000 in full discharge of all liabilities of the government. The payment of this sum would probably do the government no injustice if the allowance to be made is placed on the footing of compensation to be awarded for all the damage done the claimant's property, and all the profit it could have derived from its use in job-work for the Army.

This is the sum that remains after reducing the price for the rent of the machinery, &c., below the estimates of the witnesses from 25 per cent. to 20 per cent. of its cost, which is the lowest sum named in the testimony by any of the experts, and reducing the amount claimed for injury done to the property from 50 per cent. to 20 per cent., which is less than half the amount named by any of the experts, and by reducing the charge for merchandise used, &c., from 50 to 25 per cent. Your committee think it more in accordance with a wise and just policy in such cases to make reasonable restitution rather than to enter into an accounting of losses and damages, or of profits that might have accrued to the claimant if there had been no disturbance of its business. In this case there was no wanton destruction of property. There was much unavoidable loss to the claimant, which resulted in no benefit to the government. The claimant sustained other serious losses by the alteration of the buildings to adapt them to the purposes of the Quartermaster's Department.

The sum of one hundred and fifty thousand dollars, with the present purchasing power of the national currency, would provide a fair means of restoration to the "Book Agents" corporation of the foundation of this charity, and would be, as we understand the proof, a less sum than was saved to the Treasury in the use of material, machinery, houses, and the appliances of this great printing-house. This sum is much below the lowest estimates of any of the witnesses as to the losses actually sustained by the claimant, and would not be adequate compensation if measured by such a standard. But with the prudent use of this sum,

at the present prices of property, it is believed that this public charity can be reinstated.

The following statement, made in the petition, your committee find to be correct, viz:

The delay in presenting this claim was unavoidable. The entire business is under control of the general conference, which meets only quadrennially. At its session in 1866 we were advised by counsel to let the matter rest until the affairs of the country should become more settled.

At the conference of 1870 an agent was appointed, but his failing health and inability to spend the necessary time in Washington caused further delay, when the present agent was appointed. The claim was presented to the second session of the Forty-second Congress in December, 1872, but we could not get a report from either of the of committees of that session.

On the assembling of the Forty-third Congress our claim was in the hands of the House of Representatives on the day of its organization, but we utterly failed to get a report from the Committee on War-Claims, to which it was referred, until one or two days before the close of the first session. Then we have four different reports—one of them stating but little else but that the case had not been fully examined by the committee; another that it was inexpedient *now* to pay the claim; and one favorable and one unfavorable, for reasons stated.

In the second session of last Congress, it is well known that little or no business of this character was acted upon, nor could we get our claim before the House.

The loyalty or disloyalty of the claimant, its agents, its membership, or its beneficiaries, does not appear to your committee to be a necessary inquiry in this case.

The government, acting under its own civil statutes and through its courts in the confiscation of property, puts in issue the only phase of the disloyalty of a citizen which affects his right of property.

The decision of the court that the property is not confiscable is a decision that such person owns and has the right to enjoy it. And the refusal of the United States to proceed under the statutes to get a decree of confiscation on a libel filed for that purpose, which is ended with a *nolle prosequi*, is a final declaration that the government will not claim the forfeiture. No treasonable use could have been made of this property by the agents of this corporation which would not have been a gross violation of their authority. They could not impress the property of this charitable institution with their crime so as to render it liable to forfeiture. There was no law to justify the circuit court of the United States, at Nashville, in withholding the property of the claimant when it was not condemned. If it had rented out the property, or sold it, the right of the claimant to the rental, or the proceeds of the sale, would be unquestionable.

The government can refuse to pay a person who was disloyal any debt it may owe such person, but this discretion should be exercised with wisdom, and for the highest reasons of public policy. Your committee do not believe that public policy or public sentiment requires Congress to refuse to restore this charity.

This corporation was chartered by the legislature of Tennessee 25th of February, 1856, "for the manufacture and distribution of books, tracts, periodicals," &c., "under control of the said Methodist Episcopal Church South, according to the laws and usages of the same, as contained in their present or in any future edition of their Discipline."

It was intended, in the broadest sense, to be an eleemosynary institution through which there could be furnished at very low rates, and also gratuitously, religious literature and school-books to the people. There was no stock of the corporation, and all its increase was to be and was devoted to increasing the usefulness of the charity. The means placed within its control, from whatever source they were derived, were dedicated to the purposes of its foundation. The ecclesiastical body known as the "Methodist Episcopal Church South," which was also a legal

corporation, selected the persons to conduct the business of the "Book-Agents," &c., corporation, and give general direction to its operations. The Discipline of the church referred to in the act incorporating the "Book-Agents," &c., is the authentic declaration of the relations of the church to the government. Nothing but the authority that is competent to change this discipline can alter these relations. They have been the same for nearly a century, and were not altered as to either branch of the church by the unfortunate division that occurred in 1845.

These relations conform to and correspond with the constitutional declarations on the subject, leaving no room for any agent of the church, in any way, except by obedience to lawful authority, to participate officially in any matter relating to the government of the country.

When the war commenced, this church found its territorial boundaries cut in twain by the operations of the armies, so that nearly equal portions of it were on the opposing sides. In this emergency it sought to preserve its relations to the Government of the United States, so as to avoid the embarrassments of the war. The deposition of the Rev. Thomas M. Finney on this subject gives a full account of this matter, and is as follows:

STATE OF MISSOURI,
County of ——— :

Personally appeared before the undersigned, Joseph E. McGinnis, notary public for Saint Louis County, Missouri, Thomas M. Finney, a man well known to me, who, being duly sworn, deposes and says he is a minister of the gospel in the Methodist Episcopal Church South, and is and has been since the year 1851 a member of the Saint Louis Conference of said church. That in the year 1863, seeing the course the war of the rebellion was taking in most of the Southern States, and that a considerable portion of the ministers and members of his said church lay in that direction, said affiant with other loyal ministers and members of said church felt great fear and apprehension lest in some way the war might work a real or apparent disturbance or disruption of the relations heretofore existing between said church and the Government of the United States; that, as said affiant understood and believed, some of the leading members and ministers of said church consulted with able lawyers, and were advised thus what they had best do, in the then anomalous circumstances o war and general disturbance. Affiant further states that, as he understood and believes, the most suitable measures practicable were adopted under and in pursuance of such legal advice above alluded to, and conformable as near as practicable to the usage and custom of said church. A general convention of said church was advertised and called to be holden in the city of Louisville, State of Kentucky, on the 6th day of April (1864), eighteen hundred and sixty-four, and that the following-named conferences of said Methodist Episcopal Church South appointed delegates to said convention in the usual way or as nearly so as practicable, to wit: the Kentucky and Louisville Conference, comprising the State of Kentucky; the Western Virginia Conference, comprising the western part of the State of Virginia; the Holston Conference, comprising parts of Virginia, North Carolina, and Tennessee; the Tennessee Conference, comprising most of the State of Tennessee except the western portion; the Memphis Conference, comprising West Tennessee and North Mississippi; the Missouri and Saint Louis conferences, comprising the State of Missouri; the Arkansas conference, comprising the State of Arkansas; and the Indian Mission conference, comprising Western Arkansas and the Indian Territory west thereof. The said delegates representing said conferences met at the appointed place in the city of Louisville on the said 6th day of April, 1864, and organized themselves in the usual way, or as nearly so as practicable, into a general convention of the Methodist Episcopal Church South. The said convention in the regular way appointed this affiant its secretary, in which capacity he then and there acted. The late Rev. Charles B. Parsons, D.D., of Kentucky, was in like manner chosen and acted as president of the convention. The convention declared itself to be "delegates to the convention, and representing loyal members of several conferences of the Methodist Episcopal Church South," and that said delegates "do hereby, in the name of and for the loyal members of several conferences of the Methodist Episcopal Church South, assert their right to and claim possession of and the administration of said property for the original foundation of said charity," meaning the Southern Methodist Publishing-House, then in charge of Rev. Richard Abbey, financial secretary thereof, and situated in the city of Nashville, Tenn. So the said convention, in the course of its business, sitting and transacting various business pertaining to its legitimate internal affairs during three days, viz, the 6th, 7th, and 8th days of April, 1864, held and avowed *itself on* several occasions to be a true, legal, and loyal convention of the Methodist Episcopal Church South in and under the Government of the United States, and holding and

affirming its original relation thereto. The said convention, in the name and on behalf of the Methodist Episcopal Church South, of which it was a delegated convention, memorialized the President of the United States on matters of interest to said church; which memorials, as far as is known to this affiant, were duly and respectfully considered.

THOMAS M. FINNEY.

Sworn to and subscribed before me this 26th day of November, A. D. 1872.

JOSEPH E. McGINNIS,
Notary Public, Saint Louis County, Mo.

This action of the convention at Louisville was afterward fully ratified and confirmed by a general conference of the representatives of the entire church, held at New Orleans, in May, 1866, as is more fully seen by the following extract from the journal of said general conference, at pages 90 and 91, viz:

Reports Nos. 2 and 3 of the committee on books and accounts were taken up and adopted, as follows:

2. In regard to sundry papers sent to this committee referring to the action of a convention of preachers held in Louisville, Kentucky, in April, 1864, and to the action of certain commissioners appointed by that convention, we respectfully report: That, in view of the fact that the members of that convention, representing eight annual conferences, together with the commissioners appointed by them, were acting with the sole design to protect and preserve to its lawful owners the property of the church; and in view of the further fact, that the convention and its commissioners did much toward the accomplishment of that very desirable end, the committee recommend that the general conference approve the action and object of said convention, and also direct the agent of our publishing interests to pay the traveling expenses of the commissioners, and also the fee to the lawyer employed by said commissioners.

Respectfully,

D. R. McANALLY.

NEW ORLEANS, *April* 16, 1866.

It cannot, therefore, be imputed to this great ecclesiastical body that it took ground against the Government of the United States during the war. That the sympathies of many of its members were in favor of the South is not to be denied; still it is a question whether the majority of the whole body were not loyal to the government. Very many of them were loyal in the strictest sense of the word. But the Government of the United States cannot justly or wisely adopt a policy that will take from the people, even though they were disloyal, the fruits of a charity which provides them with literary, scientific, and religious instruction, and the means of educating their children, for the purpose of enriching its Treasury. There was no such policy in the war. The arms of the United States could not have been directed against such charities as something worthy of destruction. They were restrained, rather, by section 2, paragraphs 34, 35, and 36 of General Order No. 100, which declare that—

34. As a general rule, the property belonging to churches, to hospitals, or other establishments of an exclusively charitable character, to establishments of education, or foundations for the promotion of knowledge, whether public schools, universities, academies of learning, or observatories, museums of the fine arts, or of a scientific character, such property is not to be considered public property in the sense of paragraph thirty-one; but it may be taxed or used when the public service may require it.

35. Classical works of art, libraries, scientific collections, or precious instruments, such as astronomical telescopes, as well as hospitals, must be secured against all avoidable injury, even when they are contained in fortified places while besieged or bombarded.

36. If such works of art, libraries, collections, or instruments belonging to a hostile nation or government can be removed without injury, the ruler of the conquering state or nation may order them to be seized and removed for the benefit of the said nation. The ultimate ownership is to be settled by the enduring treaty of peace. In no case shall they be sold or given away, if captured by the armies of the United States; nor shall they ever be privately appropriated or wantonly destroyed or injured.

If reasons have heretofore seemingly existed that would justify Congress in withholding compensation to the claimant, they no longer exist.

in such form as to require the government to deny an act of justice to the generation now needing the benefits of this great public charity.

The petitions laid before this committee represent that many of the people of the United States, of all sections, earnestly desire that Congress will give just relief in this matter. It is believed that no private claim was ever presented to Congress that was so extensively and earnestly supported by various memorials and recommendations. That four are from State legislatures, one from the general conference of the Colored Methodist Church. Others from eight of the bishops of the Methodist Episcopal Church, viz: Bishops Morris, Janes, Simpson, Ames, Bowman, Merrill, Peck, and Haven, and many other ministers of that church. Others from the mayor and council of Nashville and of Edgefield, Tennessee; another from the governor and most of the officials, national, State, and municipal, of Nashville; another from Judge Trigg, of the United States court of Nashville; another from all the judges of the supreme court of Tennessee, with its entire bar; another from about two hundred merchants, bankers, and business houses of Nashville; another from the chiefs of the Indian nation west of Arkansas; others from all the annual conferences of the Methodist Episcopal Church South; and others from many of the leading ministers of the Methodist Episcopal Church, chiefly in New York, Baltimore, Washington, &c.; and others from nearly a hundred colleges and high schools in many parts of the country; and still others from about three thousand individual petitioners in about one hundred cities and towns in twenty-five States. These last include about one hundred and twenty governors, ex-governors, judges, and members of Congress, and fully five hundred other prominent men in civil office, the remainder being mostly lawyers, doctors, and clergymen of all denominations, and other substantial citizens, white and colored, and including all religious beliefs, Jews, Catholics, and Protestants. The papers laid before the committee substantially support these statements. These memorials indicate a sentiment which is honorable to the people and most gratifying to all who desire that our past differences may cease to be remembered as causes of present or future discord, but may only be adverted to as admonitions to warn us against like evils.

The separation of the Methodist Church, and of the Baptist and Presbyterian Churches as well, into Northern and Southern wings, was the result of differences as to the moral and religious aspect of African slavery. It was nearly twenty years after the first fissure was disclosed in those great religious organizations until the political institutions of the country were thown into disorder and division by the same questions. A great number of those who believed in the morality and constitutionality of slavery did not believe that its preservation was worth the cost and suffering of war, or that secession was a rightful remedy. These were Union men as well as pro-slavery men, and when they resided in parts of the country where their views were favored, they were openly opposed to the Confederate States in the war. It is doubtful whether there was a majority of the Methodist Episcopal Church South that were, in sentiment or in political affiliation, disunionists. But however this may have been, as the division of sentiment in this great denomination of Christians was among the first heralds of approaching discord, war, and ruin, so their approaching reunion is a most gratifying proof that we have survived these dangerous troubles, and that the public sentiment, which is so perfectly reflected in their conduct and dealing with each other, has settled down with genuine satisfaction

to the work of accomplishing the full and cordial reconciliation of the people throughout the country.

Your committee believe that the passage of the bill which they report and recommend will greatly encourage and assist in completing this good work. Your committee are aware that objections to this bill will be urged which are apparently strong and well worthy of consideration, but they believe that they are met by the facts and views of the law already presented in this report. Your committee do not, therefore, attempt to answer in detail these objections in this report. The majority of the committee believe that the law of the land; justice to a large and helpless class of people; a magnanimous spirit on the part of the government towards the beneficiaries in a great charity, which has been injured through its action; popular sentiment, North and South, and the heartfelt desire of the people throughout the country for a perfect restoration of peace and amity between them, all concur in supporting the recommendation which they have the honor to submit, that Congress will pass the accompanying bill.

Your committee have anxiously considered how far their recommendations may be drawn into precedent, and become an invitation to other claimants to press upon the country their demands for indemnity for losses during the war. We believe that there can be no other case like this in its essential features. The nature of the charity, as an educational agency; its freedom from mere personal advantage to those who manage it; its usefulness in disseminating knowledge through the poorer classes of our population; and the fact that the government in the use of its property saved a large expenditure of money which, otherwise, would have been unavoidable; and the further and important fact that when this property was seized by military orders it was in the custody of the United States circuit court, and was entitled to the protection of the law, seem to furnish reasons which are satisfactory to justify Congress in treating this as an exceptional case.

Your committee report the following proofs submitted to them, touching the material facts in the case, numbered from 1 to 20 inclusive. Other testimony was submitted, which it is not considered necessary to print.

EXHIBIT 1.

THE UNITED STATES OF AMERICA
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE, its type, &c.

Transcript of record from the circuit court of the United States for the middle district of Tennessee.

MIDDLE DISTRICT OF TENNESSEE, *ss:*

At a circuit court of the United States, begun and held at the capitol of said State, in the city of Nashville, within and for the district aforesaid, on the third Monday, being the sixteenth day of October, in the year of our Lord eighteen hundred and sixty-five, and the ninetieth year of the Independence of the United States.

Present, the honorable Connally F. Trigg, United States district judge for the several districts of Tennessee; present also, Edwin R. Glascock, marshal of said district, and Edward R. Campbell, clerk of said court.

The following proceedings were had, to wit:

On the 24th day of May, 1862, a libel of information was filed in said court, which is as follows:

Circuit court of the United States for the district of Middle Tennessee.

To the judges of the circuit court of the United States for the district of Middle Tennessee:

John Trimble, attorney of the United States for the said district, who prosecutes for the United States, exhibits this his libel of information against a certain lot and the buildings thereon, situated near the northeast corner of the public square in the city of Nashville, fronting on said square, being the large building adjourning the City Hotel, known as "The Southern Methodist Publishing House," in which have been printed a variety of publications, among which were the Nashville Christian Advocate, a newspaper, and the Confederate Almanac, and divers other publications; and also against all the type, presses, machinery of every description, and implements and fixtures of every character connected with the said house or lot, or attached to the property; and against all persons lawfully intervening for their interests therein.

And thereupon the said John Trimble doth allege, articulately propound, and give the said judge to understand that on the first day of January, in the year of our Lord eighteen hundred and sixty-two, at Nashville, in the district aforesaid, on land, the said property was knowingly used and employed by the owners, and with the consent of said owners of said property, in aiding, abetting, and promoting an insurrection against the Government of the United States.

First. For that heretofore, to wit, on the 1st day of January, 1862, and after the proclamation of the President of the United States referred to in the act of Congress entitled "An act to confiscate property used for insurrectionary purposes," approved August 6, 1861, the said property hereinbefore described was knowingly used and employed, in the district aforesaid, by the owners thereof, and with the consent of said owners, in aiding, abetting, and promoting an insurrection or resistance to the laws of the United States.

Secondly. For that heretofore, to wit, on the day and year aforesaid, at, to wit, in the district aforesaid, and after the proclamation aforesaid, the said property was knowingly used and employed by the owners aforesaid, and with the consent of the owners thereof, in aiding, abetting, and promoting persons engaged in said rebellion and resistance to the laws of the United States, in this, that at the time above specified, and at divers times previous thereto, said Southern Methodist Publishing House did publish various articles and numerous publications aiding and abetting and promoting said insurrection or resistance to the laws of the United States.

The said attorney of the United States, upon behalf of the said United States, saith that all and singular the premises are true.

Wherefore he prays that process in due form of law issue against the house and lot, type, machinery, implements, &c., to enforce the seizures, confiscations, and condemnations thereof, and requiring notice to be given to all persons concerned in interest to appear and show cause, on the return day of said process, why the forfeiture should not be decreed.

JOHN TRIMBLE,
Attorney of the United States for the Middle District of Tennessee.

On the 24th day of May, 1862, a warrant of arrest was issued, which is as follows:

MIDDLE DISTRICT OF TENNESSEE:

The President of the United States to the marshal for the middle district of Tennessee, greeting:

Whereas a libel of information hath been filed in the circuit court of the United States for the middle district of Tennessee, on the 24th day of May, 1862, by John Trimble, esq., attorney of the United States for the said district, on behalf of the United States of America, against a certain lot and the buildings thereon, situated near the northeast corner of the public square, in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as the Southern Methodist Publishing House; and also against all the type, machinery, presses, implements, and fixtures of every description connected with the said house and lot, or attached to said property, for reasons and causes in said libel of information mentioned, and praying that the usual process and monition of said court in that behalf to be made, and that all persons interested in the said house and lot, type, presses, implements, and fixtures may be cited in general and special to answer the premises; and all due proceedings being had, that the house and lot, type, machinery, presses, implements, and fixtures may be, for the causes in said libel of information mentioned, condemned, and the proceeds thereof distributed according to law.

You are therefore hereby commanded to attach the said house and lot, type, machinery, presses, implements, and fixtures, and to detain the same in your custody until the further order of the court respecting the same, and to give due notice to all persons claiming the same, or knowing or having anything to say why the same should not be condemned as forfeited and the proceeds thereof distributed according to the prayer of the said libel of information; and that they be and appear before the said court to be held in and for the

middle district ot Tennessee, on the first Monday, being the 6th day of October next, in the forenoon of that day, then and there to interpose a claim for the same, and to make their allegations in that behalf; and what you have done in the premises do you then and there make return thereof together with this writ.

Witness the honorable Roger B. Taney, Chief Justice, at Nashville, in the middle district of Tennessee, this the 24th day of May, in the year of our Lord 1862, and of the Independence of the United States the eighty-sixth year.

{ SEAL OF THE U. S. CIRCUIT COURT MIDDLE DISTRICT OF TENNESSEE. } HORACE H. HARRISON, *Clerk.*

Upon the back of the said warrant of arrest is indorsed the return of the marshal, which is as follows:

Came to hand the same day issued. In obedience to the within warrant I have arrested a lot with the buildings thereon, situated near the northeast corner of the public square, in the city of Nashville, fronting on the public square, and known as "The Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house or lot, or attached to said property within mentioned, and have cited all persons having or pretending to have any right, title, or interest therein, as by said warrant I am commanded to do.

Dated at Nashville, the 26th day of May, 1862.

E. R. GLASCOCK,
United States Marshal Middle District Tennessee.
By W. LELLYETT,
Deputy Marshal.

On the 3d day of June, 1862, a claim was filed in said court, which is as follows:

THE UNITED STATES
vs.
A CERTAIN LOT AND THE BUILDINGS THEREON, SITUATED near the northeast corner of the public square, in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as "The Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house or lot, or attached to said property.

The "Book-Agents of the Methodist Episcopal Church South," a corporation created for literary and religious and charitable purposes by the legislature of the State of Tennessee, by act passed the 26th February, 1856, chapter 136, sections 1 and 2, through Richard Abbey, one of its authorized agents, states that the said corporation is the true and *bona fide* owner of all of the aforesaid property above described and seized under and by virtue of the warrant in this case, and that no other person is the owner thereof. That the place of business of the said corporation is the city of Nashville, in the State of Tennessee, and that the said Abbey is a citizen of the United States and of the State of Tennessee.

And the said corporation, Book-Agents of the Methodist Episcopal Church South, pray to be made a defendant to this cause, being the claimant of said property, with leave to file any plea, answer, or demurrer to the proceedings, or to make any such motions as may be advised by its counsel.

The personal property seized in this cause would not probably sell for more than sixty thousand dollars, but its actual value cannot be accurately stated.

The said claimants pray to be allowed to file the bond specified in No. 9 of the rules of this court, and to replevy said personal property according to said rules, and to be restored to the use and occupation of said real estate.

Personally appeared in open court Richard Abbey and made oath that the facts set forth in the foregoing statements are true to the best of his knowledge and belief; that he is agent of claimants, "Book-Agents of the Methodist Episcopal Church South," and fully authorized to file the above claim.

R. ABBEY.

Sworn to and subscribed before me, this 3d day of June, 1862.

H. H. HARRISON, *Clerk.*

On the 3d day of June, 1862, a bond for costs was filed by claimants, which is as follows:

Know all men by these presents, that we, R. Abbey, agent, and John W. Hunter, are held and firmly bound unto the United States of America in the sum of two hundred dollars, lawful money of the United States, to be paid to the said United States, for which payment

well and truly to be made we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated this 3d day of June, 1862.

Whereas an information has been filed in the circuit court of the United States of America for the district of Middle Tennessee, at Nashville, on the 24th day of May, 1862, by John Trimble, esquire, attorney of the United States for the district aforesaid, against "The Southern Methodist Publishing House, its type, machinery, implements, and fixtures," more particularly described in the information and monition in the above-entitled suit, for reasons and causes in the said information mentioned, and praying that the same may be condemned as forfeited to the uses in said information specified.

And whereas, also, a claim has been filed in said court by R. Abbey, as agent of "The Book-Agents of the Methodist Episcopal Church South," "alleging that they are the owners of the said lot, and buildings thereon, situated near the northeast corner of the public square in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as 'The Southern Methodist Publishing House,' and all the type, machinery, presses, implements, and fixtures of every description connected with said house or lot, or attached to said property:"

Now, therefore, the condition of this obligation is such that if the said R. Abbey, agent, or John W. Hunter, or either of them, shall defend the prosecutions thereof and respond in costs in case the said R. Abbey, agent, shall not support his said claim, then this obligation to be void; otherwise to remain in full force and virtue.

R. ABBEY, *Agent.* [SEAL.]
JOHN W. HUNTER. [SEAL.]

On the 4th day of June, 1862, a replevy-bond was filed by the claimant, which is as follows:

Circuit court of the United States for the middle district of Tennessee.

THE UNITED STATES OF AMERICA *vs.* THE LOT AND BUILDING THEREON KNOWN AS THE SOUTHern Methodist Publishing House, and the presses, type, machinery, fixtures, and implements connected with the said house or lot or atta ched to ed property.	Libel of information, No. 8.

Know all men by these presents that we, Richard Abbey, agent of "The Book-Agents of the Methodist Episcopal Church South," and Richard Abbey and William R. Elleston are held and firmly bound unto the United States of America in the sum of sixty thousand dollars, lawful money of the United States, to be paid to the said United States, for the payment of which well and truly to be made, we bind ourselves, and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents, sealed with our seals and dated this 4th day of June, A. D. 1862.

Whereas an information has been filed in the circuit court of the United States of America for the district of Middle Tennessee, at Nashville, on the 24th day of May, 1862, by John Trimble, attorney of the United States for the district aforesaid, against the lot and building thereon known as the Southern Methodist Publishing-House, and the presses, types, machinery, fixtures, and implements of the said publishing-house, more particularly specified in the information and monition in the above-entitled suit, No. 8, for reasons and causes in the said information mentioned, and praying that the same may be condemned as forfeited to the uses in said information specified:

And whereas also a claim has been filed in said court by the said "Book-Agents of the Methodist Episcopal Church South," as owners of the said property, to wit, of the said lot and building thereon, situated near the northeast corner of the public square in the city of Nashville, fronting on said square, being the large building adjoining the City Hotel, known as the Methodist Publishing-House, and also the type, presses, machinery of every description, implements, and fixtures of every character connected with the said house and lot, or attached to said property.

And the said claimants having obtained an order from the circuit court of the United States for a redelivery of said property and a delivery of the possession of said real estate to the said claimants upon the execution of this bond:

Now if the property seized as aforesaid shall be forthcoming, if so ordered by the court on the final hearing of this cause, to be subject to the decree or decrees to be pronounced in said cause, then this obligation to be void; otherwise to remain in full force and effect.

R. ABBEY, *Agent.*
R. ABBEY. [SEAL.]
W. R. ELLESTON. [SEAL.]

On the 27th day of June, 1862, a motion and affidavit was filed in said court by W. R. Elleston, which is as follows:

THE UNITED STATES
v.
A CERTAIN LOT AND BUILDING THEREON, SITUATED near the northeast corner of the public square, in the city of Nashville, fronting on the public square, being a large building adjoining the City Hotel, and known as the Methodist Publishing-House, and also against all the type, machinery, presses, implements, and fixtures of every description connected with said house or lot, or attached to said property.

In this cause William R. Elleston makes oath that he became a surety on the replevy-bond given for the replevy of the property attached in this cause under rule No. 9, adopted by this court.

The bond is in the sum of sixty thousand dollars, and is also signed by R. Abbey, the only cosecurity.

He states that said cosecurity has rented out some of the machinery, including a press, type, &c., to other persons without deponents consent or knowledge, and against his wish, and he fears it will be so used that if destroyed or misused he will be liable upon his bond, without his consent to the misuse.

He is willing to remain liable for the forthcoming of the property if he and his cosecurity can be permitted to hold it in the state in which it was when seized in this case. But his cosecurity has not so acted, but has placed a part of the property beyond his own control, where it may be destroyed, and deponent made responsible for the acts of others and against his consent.

He therefore prays that the said Abbey have notice of this proceeding, that this deponent be released as surety on his said bond, and the property be redelivered to the marshal to be held subject to the decision of the court in this cause, unless the said Abbey or his principal, the "Book-Agents of the Methodist Episcopal Church South," will give other security.

W. R. ELLESTON.

Sworn to and subscribed before me this 27th June, 1862.

HORACE H. HARRISON,
Clerk.
By E. R. CAMPBELL, *D. C.*

Notice to R. Abbey on above motion, given June 27, 1862.

To R. Abbey, agent of the Methodist Publishing House South:

You are hereby notified that a motion has been made by W. R. Elleston to be released from the bond given for the redelivery of the property of the Methodist Publishing House South on account of the renting out of a portion of the property without his consent.

You are, therefore, notified to be and appear before the circuit court of the United States for the middle district of Tennessee, on June 28, 1862, at 11 o'clock in the forenoon of that day.

HORACE H. HARRISON,
Clerk,
By E. R. CAMPBELL, *D. C.*

(Indorsed:) Came to hand same day issued. Executed by making known to R. Abbey the contents, and leaving a copy of summons or notice with him.

June 27, 1862.

E. R. GLASCOCK,
United States Marshal,
By W. LELLYETT,
Deputy.

(Upon the back of the affidavit and motion of W. R. Elleston, before set out, is the following indorsement:)

On consideration of the motion founded on this affidavit, I refuse to release Wm. Elleston as a surety to this bond.

June 28, 1862.

J. CATRON,
Presiding Judge.

On the 20th day of April, 1864, an amended information was filed, which is as follows:

Circuit court of the United States for the middle district of Tennessee. April term, 1864.

And now comes Horace H. Harrison, esq., attorney of the United States for said district, who prosecutes herein in the name and on behalf of the said United States, and by leave of the court, obtained at the October term, 1863, and propounds as follows in addition to and as an amendment to his original information, No. 8, filed in this court:

The said attorney, by way of amendment, brings this information against all the types, presses, machinery of every description, and implements and fixtures connected with or used by "The Book-Agents of the Methodist Episcopal Church South," in its publishing-house in the public square in the city of Nashville. Also against all the right, title, interest, and estate of the said "Book-Agents of the Methodist Episcopal Church South," in a lot of land in the city of Nashville, in the district aforesaid, on the public square in said city, more particularly described in the deed to said lot to said book-agents, a duly-certified copy of which is herewith filed and made a part hereof, and the buildings and improvements, and all the hereditaments belonging and appertaining to said lot, known as the Southern Methodist Publishing House, and against all persons lawfully intervening for their interests therein.

And thereupon, the said attorney of the United States doth now allege, articulately propound, and give the judge of said court to understand and be informed that the said personal property has been heretofore seized in this cause before the filing of the original information, and the right, title, interest, and estate of the Book-Agents of the Methodist Episcopal Church South was seized or levied on the 20th day of April, 1864, upon an order of seizure issued by the said attorney of the United States in pursuance of instructions from the Attorney-General of the United States, and the same is now in the custody of the marshal of said district, seized as aforesaid as forfeited to the United States for the causes following, to wit:

First. For that heretofore, to wit, at Nashville, in the district aforesaid, on the 1st day of January, 1862, and on divers other days before and since the day last aforesaid, and after the passage of the act of Congress, approved on the 6th day of August, 1861, entitled "An act to seize and confiscate property used for insurrectionary purposes," and after the public warning and proclamation provided to be given and made by the President of the United States, by the first section of the act of Congress aforesaid, had been duly given and made, and during the insurrection and resistance to the laws mentioned in said act, the said property herein described was knowingly used, or employed by the owners thereof, to wit, by a certain person or corporation called the "Book-Agents of the Methodist Episcopal Church South," in aiding, abetting, and promoting the insurrection and resistance to the laws mentioned in said act of Congress, or persons engaged therein.

Second. That heretofore, to wit, at Nashville, in the district aforesaid, on the first day of January, 1862, and on divers other days, before and since the day last aforesaid, and after the passage of said act of Congress, and after the said public warning and proclamation had been duly given and made by the President of the United States, as provided by the act of Congress aforesaid, and during the insurrection against the Government of the United States mentioned in said act of Congress, the said owner of said property heretofore described, to wit, the said "Book-Agents of the Methodist Episcopal Church South," consented to the use or employment of said property in aiding, abetting, or promoting such insurrection or resistance to the laws or persons engaged therein. By means whereof, and by force of the statute in such case made and provided, the said property became forfeited to the United States, and liable to seizure, confiscation, and condemnation.

Third. That all and singular the premises are true.

Wherefore the said attorney of the United States prays that all proper process upon the filing of this amended information issue, including the usual monitions warning all persons claiming or pretending to have any interest in said property to appear on the second Monday in May, 1864, to show cause, &c., and make their allegations, &c.; that the said personal property, and all the right, title, estate, and interest of the "Book-Agents of the Methodist Episcopal Church South" in the real estate herein described, be sold, and the proceeds, after paying costs and allowances, be paid over to the use of the said United States, and that the court will make all necessary orders and decrees herein as to law and justice may appertain.

HORACE H. HARRISON,
Attorney of the United States for the Middle District of Tennessee.

On the 20th day of April, 1864, an order of seizure was issued by the attorney of the United States for the middle district of Tennessee, which, together with the return of the United States marshal for said district thereon, is as follows, to wit:

OFFICE OF THE ATTORNEY OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF TENNESSEE,
Nashville, Tenn., April 20, 1864.

The marshal of the United States for said district will seize all the right, title, claim, and *interest of the* "Book-Agents of the Methodist Episcopal Church South" in the Southern

Methodist Publishing House lot in the city of Nashville and district aforesaid, and you will make return to me and notify the tenant, if any, in possession.

HORACE H. HARRISON,
Attorney of the United States for the Middle District of Tennessee.

Return of the marshal indorsed on said order.

Came to hand 20th April, 1864, and executed by seizing all the right, title, claim, and interest of the Book-Agents of the Methodist Episcopal Church South in the Southern Methodist Publishing House lot in the city of Nashville, and gave notice to R. Abbey, agent, the tenant.

April 20, 1864.

E. R. GLASCOCK,
Marshal Middle District of Tennessee.

On the 30th day of April, 1864, a demurrer to the original and amended information was filed by the claimants, which is as follows:

THE UNITED STATES
vs.
THE LOT AND BUILDING KNOWN AS THE SOUTHERN METHODIST Publishing House, and the presses, type, machinery, fixtures, and implements connected with the same.

And the said Book-Agents of the Methodist Episcopal Church South come into court by attorney and say that the information and amended information filed in this cause and the matters therein contained are not sufficient in law; and that the said defendant is not bound by the law of the land to answer the same, and this the defendant is ready to verify; wherefore, for want of a sufficient information in this behalf, said defendant prays judgment, and that by the court the said information and amended information be dismissed and the defendant be discharged from the premises therein specified.

RUSSELL HOUSTON,
Proctor.

Joinder in demurrer.

And the said United States, by Horace H. Harrison, attorney of the United States, come and say that the said information is sufficient in law.

Wherefore the said United States prays the judgment of the court, &c.

HORACE H. HARRISON,
Attorney of the United States for the Middle District of Tennessee.

On the 9th day of May the plea of Myers, Hunt & Co. was filed in said cause, which is as follows:

THE UNITED STATES OF AMERICA
vs.
A CERTAIN LOT OF PRESSES, MACHINERY, &C., SEIZED BY the marshal in the Southern Methodist Publishing House, in the city of Nashville, Tenn., and now in the circuit court of thr United States for the middle district of Tennessee.

Abram Myers, Wm. S. Hunt, and Michael Powers, partners, trading under the firm-name and style of Myers, Hunt & Co., citizens of the United States and of the State of Tennessee, residents of Davidson County, in said State, make oath and represent to the honorable court that they are the true and bona fide of the following property, to wit:

One extra large iron lathe, worth $850; one other large iron lathe, worth $300; 1 large iron lathe, worth $125; one bench-cutter and machinery to same, with gear complete, worth $75; 1 large grindstone with frame, worth $40; 3 iron vises, worth $12 each, $36; 1 drill-press, with machinery and gear complete, worth $150; 1 lot of small tools, hammers, chisels, &c., worth $75; which have been seized and attached by the marshal of said court upon the warrant of said court, and now held by said marshal and embraced in the libel aforesaid, and that no other person is the owner thereof; that the aggregate value of said property is about eighteen hundred and one dollars.

They therefore pray that they may be made defendants and claimants of said property so seized and attached as aforesaid; that the said property so seized and held by said marshal be delivered to them upon their giving bond, &c., to have the same forthcoming according

to the order and judgment of the court; and for their defense in this cause that they be authorized and permitted to make any motion, file any plea, demurrer, or answer to which they may be advised by counsel.

ABRAM MYERS.
M. POWERS.

JNO. S. BRIEN,
Counsel for Claimants.

Subscribed and sworn to before me this 9th day of May, 1864.

E. R. CAMPBELL. *Clerk.*

On the 3d day of June, 1862, an entry was made on the minutes of said court, which is as follows:

THE UNITED STATES
vs.
A CERTAIN LOT AND THE BUILDINGS THEREON situated near the northeast corner of the public square in the city of Nashville, fronting on the public square, being the large building adjoining the City Hotel, and known as "the Southern Methodist Publishing House," and all the type, machinery, presses, implements, and fixtures of every description connected with the said house and lot or attached to said property.

This day the "Book Agents of the Methodist Episcopal Church South," a corporation created by the legislature of Tennessee, through Richard Abbey, one of the authorized agents, who is a citizen of the United States and the State of Tennessee, came into court and made oath that the said corporation is the bona-fide owner of said property, and that no other person is the owner; that the place of business of said corporation is the city of Nashville, in the State of Tennessee, and the said corporation "Book Agents of the Methodist Episcopal Church South" ask to be made defendants to this cause, being the claimants of said property, with leave to file any plea, answer, or demurrer to the proceedings, or to make any motions as it may be advised to make, any motion consistent with the rules of practice of this court, which is granted upon the execution of the bond for costs which is due.

And thereupon the said corporation, through its agents aforesaid, pray that the said corporation be permitted to replevy the said type, machinery, presses, implements, and fixtures connected with the said house or lot attached to said property, and to have the possession of the real estate delivered over by the marshal upon the execution of the bond provided for in rule No. 9, adopted by this court on the 27th May, 1862.

Which prayer is granted, and the said property will be redelivered upon the execution of a bond conditioned as provided in said rule.

On the 5th day of May, 1863, an order was entered in said court, which is as follows:

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE, type, presses, machinery, &c.

On application of the attorney of the United States, who prosecutes herein, it is ordered that the cause be continued until the next term.

On the 6th day of November, 1863, an entry was made on the minutes, which is as follows:

THE UNITED STATES
vs.
THE GUN FACTORY.

THE UNITED STATES
vs.
THE UNION AND AMERICAN NEWSPAPER.

THE UNITED STATES
vs.
THE REPUBLICAN BANNER.

THE UNITED STATES
vs.
THE NASHVILLE GAZETTE.

THE UNITED STATES
vs.
LOTS NOS. 1, 2, 3, 22, AND 24, ON COLLEGE HILL, used in manufacturing cannon.

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE.

THE UNITED STATES
vs.
THE BAPTIST PUBLISHING HOUSE

THE UNITED STATES
vs.
THE NASHVILLE PATRIOT NEWSPAPER.

THE UNITED STATES
vs.
THE LOT AND BUILDINGS CORNER CHERRY AND Franklin streets, used in making gunpowder.

THE UNITED STATES
vs.
THE POWDER-MILLS OF WATSON & VEDDER.

THE UNITED STATES
vs.
ELLIS & MOORE FOUNDERY.

THE UNITED STATES
vs.
BRANNAN'S FOUNDERY.

In the foregoing causes, on application of the attorney of the United States, leave is granted to amend the information and proceedings therein, and a copy of said amended proceedings will be delivered by the marshal to the claimants or defendant of record in any of said causes, on or before the first Monday in February next.

On the 22d day of November, 1864, an entry was made on the minutes, which is as follows:

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE.

This cause is ordered to be continued until the next term.

On the 28th day of October, 1865, an entry was made on the minutes, which is as follows:

THE UNITED STATES
vs.
THE NASHVILLE GUN FACTORY.

THE UNITED STATES
vs.
LOTS NOS. 1, 2, 3, 22, AND 24, COLLEGE HILL, Nashville.

THE UNITED STATES
vs.
THE METHODIST PUBLISHING HOUSE.

THE UNITED STATES
vs.
LOT USED IN MAKING POWDER, CHERRY ST.

THE UNITED STATES
vs.
THE POWDER-MILLS OF WATSON & VEDDER.

THE UNITED STATES
vs.
BRENNAN'S FOUNDERY.

On the 23d day of October, 1865, an entry was made on the minutes, which is as follows:

This day the attorney of the United States for this district announced to the court that under the instructions of the Attorney-General of the United States he was directed to continue and omit all further proceedings in all cases under the acts of Congress commonly called the "confiscation acts" pending and undetermined in this district until further instructions from the office of the Attorney-General, and thereupon moved the court to continue all of said causes.

Upon consideration thereof, it is ordered by the court that the above causes, being all the causes in this court pending and undetermined under said act of Congress, be continued.

On the 23d day of October, 1865, an entry was made on the minutes, which is as follows:

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE, &c.

Came the attorney of the United States, and the claimants, by their attorney; and the demurrer being solemnly argued, it is considered by the court that the said demurrer be overruled, with permission for the claimant to rely upon the matters raised by the demurrer on the trial of the cause.

On the 13th day of November, 1865, an entry was made on the minutes, which is as follows:

THE UNITED STATES
vs.
THE SOUTHERN METHODIST PUBLISHING HOUSE, &c.

Came the United States attorney, and the claimants, by their attorney, and, by direction of the Attorney-General of the United States, the said attorney says that he will no further prosecute herein.

It is therefore considered by the court that the information and proceedings in this cause be dismissed, and the property therein seized be restored to the claimant on payment by them of the costs and allowances in said cause. And the court allows to John Trimble, former United States attorney, the sum of $100; to Horace H. Harrison, present United States attorney, $50; to the marshal, $250; and to the clerk, $100, for their services in this cause, for which let *fi. fa.* issue.

A certificate of probable cause of seizure is hereby awarded in this cause to the persons concerned therein.

UNITED STATES OF AMERICA,
Middle District of Tennessee, ss:

I, Edward R. Campbell, clerk of the circuit court of the United States for the middle district of Tennessee, do hereby certify that the foregoing is a true and perfect transcript of the record and proceedings had in said court in the cause of the United States against The Southern Methodist Publishing House, &c., as the same appears on record and from the files remaining in my office.

In testimony whereof I have hereto set my hand and affixed the seal of said court, at Nashville, in said district, this 12th day of November, 1877.

[SEAL.] E. R. CAMPBELL,
Clerk United States Circuit Court.

Affidavit of Brevet Lieutenant-Colonel A. W. Wills.

Personally appeared before me, Josiah Ferriss, a notary public in and for the county of Davidson, State of Tennessee, A. W. Wills, a person well known to me, who, being

duly sworn, deposes and says that in the late war of rebellion he was an officer in the Federal Army, brevet lieutenant-colonel and assistant quartermaster, stationed at Nashville, Tenn., in the years 1864 and 1865, and was detailed under command of General J. L. Donaldson, chief quartermaster of the Army of the Cumberland, and placed in charge of the Southern Methodist Publishing House, in said city of Nashville, then recently seized by the United States Army, by order of the late Major-General Thomas, and used as a government printing-house for the said Army of the Cumberland. Affiant had immediate charge of said printing-house from about 1864 until about or near the close of the year 1865, when it ceased to be used by the Army.

Affiant further states that the demand for Army printing increased greatly and much beyond the general anticipation, and this Methodist publishing-house being the only large establishment of the sort in the South known to this affiant. and it being impracticable to procure suitable printing-machinery from the North in suitable time to meet these demands and necessities, the said publishing-house was of very great, if not almost or quite essential, service to the Army of the Cumberland.

And this affiant further states that, in consequence of and by the use of the large and ample machinery, extensive buildings, type and printing materials of the said publishing-house, he was enabled to furnish the Army printing at an immense saving of money to the government, as his reports to the proper department will more fully show.

A. W. WILLS.

The above statement is made by me at the request of R. Abbey, esq., agent of the corporation. The facts therein contained are a matter of record among my reports on file in the office of the Quartermaster-General, United States Army, at Washington, D. C.

A. W. WILLS.

Sworn to and subscribed before me this September 20, 1873.

[NOTARIAL SEAL.] JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 16, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the Forty-fourth Congress of the House of Representatives, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 16th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of Thomas D. Fite.

STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferris, notary public in and for the said county and State, Thomas D. Fite, a man well known to me, who, being duly sworn, deposes and says that he is a wholesale dry-goods merchant and property-holder in the city of Nashville, State of Tennessee; that he has been a merchant in said city for twenty years, and is well acquainted with the property in said city of Nashville, known as the Southern Methodist Publishing House, and that according to his best judgment the lot and building thereon, owned and occupied by said publishing-house, and which was taken and used by the United States Army in the years 1864 and 1865, was in 1864 worth $150,000 at a fair estimate and valuation.

THOS. D. FITE.

Subscribed and sworn to before me the 1st October, 1872.

[NOTARIAL SEAL.] JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of A. L. P. Green.

STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferriss, a notary public in and for the county of Davidson and State of Tennessee, the Rev. Alex. L. P. Green, D. D., a man well known to me, who, being duly sworn, and says that he is, and has been for more than thirty years, a citizen of Nashville, Tenn., or its immediate vicinity, and a considerable owner of real estate in said city; that he is familiarly acquinted with the property in said city known as the Southern Methodist Publishing House, he having assisted in the purchase and fitting up of the same; and he believes a just and fair estimate of the value of said property—that is, the ground and buildings thereon—in 1864, to be $150,000.

A. L. P. GREEN.

Subscribed and sworn to before me the 1st day of October, 1 872.
[NOTARIAL SEAL.] JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of William R. Warren.

STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferriss, notary public in and for the county of Davidson, Tenn., the Rev. William R. Warren, a man well known to me and of undoubted respectability and credibility, who, being duly sworn, deposes and says that for several years previous to 1864 he was chief clerk in one of the front stores and salesrooms of the Southern Methodist Publishing House, situate in the city of Nashville, Tenn.; that said publishing house was a very large one, as this affiant believes one of the largest in the United States, and by far the largest south of the city of Washington, District of Columbia, having two large front stores and several large ware-rooms, in which were kept large quantities of books, paper, and stationery of all kinds, besides, in the rear part of the same building, large printing, folding, binding, and stereotyping rooms, with many smaller offices, &c.; and that it was all in good order and condition in the month of December, 1863, in the proper custody of Rev. R. Abbey, financial secretary, one of the agents of said house.

Deponent further says that in December, 1863, or January, 1864, this entire establishment was taken possession of by the Army of the United States for the use of the United States by Colonel Donaldson, chief quartermaster or quartermaster-general, and, as deponent understood, by order of Major-General George H. Thomas.

The back buildings, or manufacturing department, was converted into a government printing-house for said Army, while the rest of the building, including the front stores and warerooms, were mostly used by the said Army for a government saddle and harness factory.

This affiant does not know the precise value of the books, paper of various kinds, and general stationery in these front stores and ware-rooms so taken possession of as above for the use of the said Army at that time, but he estimates it at $180,000, according to his best judgment.

This affiant further states that so urgent were the necessities of the Army for the immediate occupancy of those stores and warerooms, &c., that much of the merchandise therein was thrown into indiscriminate piles here and there like so much rubbish, there being no place to store it; some of it was removed several times and piled in different places in fruitless attempts to save it from extreme loss and damage. While there was no willful attempt to destroy said property, so far as this affiant knows, it was most of it necessarily damaged in order to clear the rooms for the immediate use of the said Army, its necessities being immediate and pressing, as affiant was informed and as it seemed to be.

This affiant, with others formerly employed in the said stores, at the instance and under *the direction* of the government officers immediately in command, assisted in endeavoring to

save this property from loss; but such were the pressing demands of the Army for the immediate use of the rooms, it was impracticable except to a very limited extent.

This affiant further states that he has duly considered the amount of loss and damage to said merchandise, of all kinds, in the manner and for the reasons above stated, and he estimates it at 50 per cent. upon the whole value, which estimate he believes to be fair and just.

And this affiant further states that he has no means of knowing with accuracy the whole amount of the said stationery, paper, ink, blank-books, &c., that was actually taken and used by said Army for the benefit of the United States, but he estimates the same, according to his best judgment, at $90,000, which estimate he believes approximates accuracy as near as the nature of the case admits of.

W. R. WARREN.

Subscribed and sworn to before me the 1st October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of John W. Hunter.

THE STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferris, notary public in and for said county and State, the Rev. John W. Hunter, a man well known to me, who, being duly sworn, deposes and says that he is well acquainted with the Southern Methodist Publishing House, in Nashville, Tenn., its business and general condition, he having been for about eight years employed in the same as head clerk in the principal retail store of the same, prior to the occupation of the said publishing-house by the Army of the United States in the years 1864 and 1865.

Affiant further states that when the officers of the United States Army took possession of the said publishing-house in December, 1863, or January, 1864, deponent does not remember which, it was done so suddenly, hurriedly, and unexpectedly that it was not practicable to take any inventory or account of the paper, ink, and general stationery so taken by the said Army for the use of the same; but, affiant having carefully examined such data as is within his reach, he estimates the same at $90,000, which estimate approximates exactness as nearly as practicable.

JOHN W. HUNTER.

Subscribed and sworn to before me the 1st October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee of War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before the said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee of War-Claims of the House of Representatives.

Affidavit of Hugh Carroll.

THE STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferris, notary public in and for the said county and State, Hugh Carroll, a man well known to me, who, being duly sworn,

deposes and says that he is now and for the last sixteen years has been general book-keeper in the Southern Methodist Publishing House, in Nashville, Tenn.; that when the United States Army took possession of the said publishing-house and its contents, on or about the 1st day of January, 1864, for a government printing-house and saddle and harness manufactory, it was done so suddenly that no inventory was or could be taken of any part of the merchandise and personal property either in the sales or manufacturing departments of the said publishing-house; but from the best data within his knowledge, after a careful examination of the same, he estimates the said merchandise in the front stores, ware and sales rooms, including paper, ink, and everything not pertaining to the manufacturing department, at $180,000.

And said affiant in like manner estimates the manufacturing implements and machinery, including bindery, types, and all manufacturing material, implements, and machinery so taken possession of by the United States Army, at $312,000, which estimates this affiant believes to be just and fair and as near exactness as is practicable.

HUGH CARROLL.

Subscribed and sworn to before me the 1st October, 1872.
[NOTARIAL SEAL.] JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD.
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of William Kelsea.

STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferris, notary public in and for said county and State, William Kelsea, a man well known to me, who, being duly sworn, deposes and says that at and for about nine years previous to December, 1863, when the Army of the United States took possession of the Southern Methodist Publishing House, in Nashville, Tenn., he was the superintendent and manager of the stereotyping department of said publishing-house, he being a professional printer and stereotyper by regular apprenticeship and employment, having then worked at the same for more than twenty-five years.

Affiant further states that he was very familiarly acquainted with the stereotype foundery, plates finished and unfinished, as well as all the implements, furniture, machinery, metal of various kinds, &c., in and pertaining to said department of said publishing-house at the time it was taken possession of as above by the Army of the United States.

And he further states that when the said Army took possession of said publishing-house and foundery there was in the latter considerable quantities of stereotype plates, some finished and some in the course of manufacture, as well as other material, metal of several kinds, &c., pertaining to the stereotyping business.

He further states that when said Army took possesssion of said property he, this affiant, had in his possession the keys of the stereotype-rooms and minor apartments of the same; that the Army printers broke open the doors so locked, as he was informed and presumes, to obtain the metal, implements, &c., therein, for the use of the said Army; and he states that said Army printers did take and use said materials, metals, &c., for Army purposes.

And this affiant further states that he has recently, in the last few days, made diligent examination, from all the data practicable, of the plates, metal, and material in said foundery department so taken possession of by and used for the benefit of the United States; and while he cannot state with exactness the value thereof, there being no possible opportunity of taking an inventory of the same, for lack of time, as the property was taken hurriedly and without notice, he estimates the value of the same, from his knowledge as a stereotyper and his recent examination, to be $4,550.70, which estimate he believes to be fair and just.

WILLIAM KELSEA.

Subscribed and sworn to before me the 1st day of November, 1872.
[NOTARIAL SEAL.] JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

I am personally acquainted with William Kelsea, and have known him for a number of years. He is a man of integrity and perfectly reliable in any statement he may make.

JOS. S. CARELS,
Chief Clerk Nashville Post-Office.

NASHVILLE, TENN., *November* 9, 1872.

HOUSE OF REPRESENTATIVES,
Washington, December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of Robert P. Spillers.

THE STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferriss, notary public in and for the county of Davidson, State of Tennessee, Robert T. Spillers, a man well known to me, who, being duly sworn, deposes and says that by regular apprenticeship he is a printer, and by occupation for five years a superintendent of printers and printing; that he is now the superintendent of the Southern Methodist Publishing House, in the city of Nashville, Tenn., by which office he superintends, controls, and manages the entire printing and manufacturing portions of said publishing-house; that he has held this office ever since the United States Army occupied and used the same in the years 1864 and 1865.

Affiant further says that when this publishing-house was taken possession of by the United States Army it had capacity for the employment of about two hundred operatives, and was esteemed by competent judges to be a very fine and valuable publishing and book-manufacturing house in all its appointments.

And he further states that when said printing implements and machinery were delivered up by the United States it was almost all of it in a seriously injured and damaged condition. Much of the machinery had been broken and otherwise injured, types, cuts, &c., destroyed, or in a confused and useless state. The stereotype foundery was wholly destroyed while in the possession of the Government, or so nearly so that the remaining fragments were practically useless.

This affiant estimates the value of all the manufacturing machinery and implements of said house when the Army took it at $312,000. He also considers that a fair rent per annum for the use of the same would be 25 per cent. on the value thereof.

The affiant further states that he has taken sufficient care to estimate the value of the damage of the same, in consequence of bad and improper usage, and fixes it at 50 per cent. on the value thereof.

R. T. SPILLERS.

Subscribed and sworn to before me the 1st October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of William G. Dashiell.

STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferriss, a notary public in and for said county, William G. Dashiell, a man well known to me, who, being duly sworn, deposes and says that he is, by regular apprenticeship and vocation, an engineer and machinist; that he has been engaged in that business about seventeen years; that he is now in the employment of the city of Nashville, in said State of Tennessee, as chief engineer and machinist to the water-works of said city; that, as engineer and machinist, he has had charge of the machinery of the same about one year.

And this deponent further says that on or about the 11th day of January, 1864, he was employed by the Army of the United States, known as the army of the Cumberland, under the command of Major-General George H. Thomas, and by the chief quartermaster of said Army, Col. J. L. Donaldson, whose headquarters were at said city of Nashville, to take charge of and run the engine, presses, and other machinery of the Southern Methodist Publishing-House, so called, in said city of Nashville, then in the service of the United States and used as a printing-house for the use of said army of the Cumberland; that he remained in said service and in charge of said engine and machinery about two full years—so long as the Army used the said machinery. The precise date of his dismissal from said employment is not now remembered.

Deponent further says that when he took charge of said machinery, as it was received from the Rev. R. Abbey, the agent of said publishing-house, it was very fine and costly machinery, all in excellent condition and calculated for the manufacture of books and fine printing, which kind of presses and machinery is calculated and tended to run much slower than printing-presses for the printing of blanks and the like for Army purposes.

Deponent was required by the officers immediately in command to run the said machinery much faster than its proper capacity, and he was still required to run it faster and faster, for that the wants of the Army were pressing for blanks and other printing until he replied to such orders that it was impossible to give the said machinery greater speed without the most imminent danger of tearing it all to pieces and endangering the lives of the operatives working the same. That all the time, or nearly so, that the United States Government used the said machinery, which, as aforesaid, was about two years, it was run beyond its intended capacity, generally about twenty-five revolutions per minute beyond.

And deponent further says that, in consequence of said machinery being pushed beyond its proper capacity, the presses and other parts of the machinery were frequently broken and otherwise injured. Some of the most valuable presses were broken five or six times. When so broken they were repaired temporarily so as to answer for the printing of blanks such as the Army required; but in many instances it was impracticable to restore them to their original condition for book-printing.

Deponent further says that many of the printers here so engaged in using this machinery, types, &c., were very poor printers, and very incompetent to work in almost any printing-office, much less one of such fine and costly implements and machinery as constituted this I now speak of. Moreover many of them were reckless and careless in using the implements, types, &c., and that in consequence of such incompetent workmen the property in question suffered still further damage.

Deponent further says that, as engineer and machinist, according to his best judgment, he estimates the damage to the aforesaid property, because of the pressing demands of the Army, and for the reasons above stated, at the time it was so used by the United States Army, at 30 per cent. on the value thereof.

Deponent further says that he does not know the precise value of the machinery and property hereinbefore spoken of, for he had no opportunity of making an inventory of the same; but he estimates the same according to his best judgment at the time it was taken possession of by the United States Army as aforesaid at a large value. And he further states that in his best judgment as engineer and machinist he believes a fair and reasonable rent per annum for the use of said property hereinbefore described would be 30 per cent. on its value.

And the deponent further states that among the property above spoken of were large quantities of stereotype-plates, some finished and ready for use, and some unfinished; that considerable quantities of these plates were taken by the government workmen from time to time and used for government purposes for metal for various purposes, but this affiant does not know what quantities of such plates were so used.

Deponent further says that among the property so pressed into the service of the United States as aforesaid were three large iron lathes which were used by the government during several years as above, and that he considers a fair rent for such lathes to be ———.

WILLIAM G. DASHIELL.

Subscribed and sworn to before me the 1st October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of W. F. Bang.

THE STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferriss, notary public in and for the said State and county, William F. Bang, a man well known to me, who, being duly sworn, deposes and says that he is a citizen of Nashville, Tenn., where he is and for twenty-five years has been a master printer, publisher, and proprietor, and is well acquainted with the printing and publishing business; and that he has a good general knowledge of the condition of the Southern Methodist Publishing-House in said city of Nashville as it existed in the hands of the Rev. R. Abbey at the time it was taken by the Army of the United States for a government printing-house, about the first of the year 1864, and that in his judgment as printer and publisher a fair rent for the use of the printing and manufacturing portion of the same would be 20 per cent. per annum on the entire value thereof.

W. F. BANG.

Subscribed and sworn to before me, the 1st October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of John M. Hudson.

THE STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferriss, a notary public in and for said county and State, John M. Hudson, a man well known to me, who, being duly sworn, deposes and says, that by regular apprenticeship he is printer and machinist in printing-machinery, and is accustomed to the control and oversight and management of first-class printing-presses and such like machinery.

He further says that he was familiar with the printing-machinery, presses, &c., of the Southern Methodist Publishing House in Nashville, Tenn., at and before the occupation and use of the same by the Army of the United States in 1864 and 1865, and that ever since the return of said property by the United States to the Rev. R. Abbey, the agent of the said publishing-house, this affiant has had the charge, management, and control of the said printing-presses, engine, machinery, &c., in which occupation he is now engaged.

And affiant further states that when this machinery was returned by the United States to the said R. Abbey, agent, it was all or nearly all in a damaged condition, whereas when the government received it, it was all in good order, but when so returned the printing-presses had been all broken or otherwise seriously injured. The presses were large and expensive, not intended for job-printing, such as the government required, but for book-printing. The Army printing would therefore almost necessarily injure them greatly, especially if run at a speed beyond their ordinary capacity. These presses were eight in number, large, and of fine style. Their condition when the Army printers left them showed plainly that they had been run at a speed far beyond their capacity.

Affiant further states that his opinion, as printer and machinist, is that the damage to said presses and other implements and machinery in their press-rooms from over-work and being applied to classes of work for which they were not well suited to, and by incompetent or

careless workmen, was fifty per cent. on the value thereof. Much of the machinery cannot be restored to its original condition.

This affiant is also of opinion, as printer and machinist, that a fair and reasonable rent per annum for the machinery and implements above spoken of would be twenty per cent. on the value thereof.

He further states that a reasonable rent for the use of the large iron lathes belonging to said publishing-house, and used by said Army for turning cannon and other metal, would be $17 per week for each; and further, that when the machinery went into the hands of the government it was all supplied with a full outfit of belting in good order, all of which was worn out by the government printers. It was worth——

Affiant further states that he has been engaged in the said printing business, chiefly as pressman and machinist, for the last twenty years.

J. M. HUDSON.

Subscribed and sworn to before me this 1st October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of Richard Abbey.

STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferris, notary public in and for said county and State, Richard Abbey, minister of the Gospel, a man well known to me, who being duly sworn, deposes and says: That in May, 1858, he was duly elected by the general conference of the Methodist Episcopal Church South, according to the regular forms and usages thereof, one of the agents and managers of the Southern Methodist Publishing House, so called and known, an eleemosynary and literary corporation, duly chartered by the State of Tennessee, and located and doing its principal business in the city of Nashville, Tenn., the corporate name of which corporation being the Book Agents of the Methodist Episcopal Church South, the office held by this affiant being usually called financial secretary. That after the 17th day of February, 1862, he, the said Abbey, had the sole management and control of said publishing house until the 15th day of October, 1865, and that he remained in said office of financial secretary, in the employ of said corporation, as one of its agents, until the 30th day of April, 1866.

Affiant further states that said publishing house, up to the time it was taken possession of by the Army of the United States, as hereinafter stated, was one of the largest and completest in the United States, as this affiant believes, its property in Nashville being worth, as taken and held by the said Army, nearly if not quite seven hundred thousand dollars. The ground and buildings around and occupied by said corporation were worth, in 1864, in the judgment of this affiant, $150,000 at a low valuation. The front stores of this building, five in number, were occupied as sales and ware rooms while the rear buildings were used for printing, stereotyping, binding, &c., for an extensive publishing house.

Affiant further states that on or about the 1st day of January, 1864, this entire establishment, the house and all its contents, were taken possession of by the chief quartermaster of the Military Department of the Cumberland, Col. J. L. Donaldson, by order of Major-General George H. Thomas, commander-in-chief of the same, for the use of the Army of the United States, and was so held and used by said Army, and out of the possession of this affiant, until the 13th day of December, 1865, when it was—that is, what was left of it—restored to this affiant.

Affiant further states that when so taken he made every effort to induce the said Donaldson to confine his impressment to the rear buildings containing all the printing and manufacturing implements, fixtures, and machinery, and leave in the possession of this affiant the front stores and ware-rooms, containing paper, general stationery, books, &c. But this Colonel Donaldson peremptorily refused to do, saying to me, "I take immediate possession of the entire property, everything; the building entire and everything therein." For so he construed General Thomas's order; and he took possession of the entire property that day in the name and for the use of the United States.

The rear portions of the building, types, machinery, &c., were converted into a govern-

ment printing office or printing house, while the front stores and ware-rooms were used as an army saddle and harness factory. So that while this publishing house sustained a great portion of the entire expense of the public printing of this great branch of the Army of the United States, and of the paper on which that printing was done, and furnished large and ample stores and ware-rooms for an extensive government saddle and harness factory, it was necessarily prevented from pursuing its great work of supplying the whole country with a wholesome moral and religious literature, which is its proper and legitimate business.

Deponent further says that in cleaning the stores and ware-rooms above mentioned for the reception of the government saddlery and to make room for the workmen, so urgent were the necessities of the Army, as affiant was informed, that the books and stationery, much of it, was removed in the greatest possible haste, so much so that large quantities were hurriedly piled indiscriminately in great heaps, and some of it removed several times in attempts to save some of it from total loss, but the orders to clear the rooms were so peremptory and urgent that much of it was destroyed or damaged.

Affiant further states that when this property was so taken as above, he had just finished the building of a front store in a vacant space, of the value of $5,000, which store was entirely demolished and removed to make more easy access to the back buildings for the government workmen.

And affiant further states that a lot of printing material, constituting what printers call a job-office, comprising a printing-press and complete outfit, was taken out of the said publishing house, and from the possessirn of this affiant, by order of the commander of the post at Nashville, and for the use of a corps of United States Engineers, and finally carried to the front, as affiant was told and believes. No part of this printing office was returned. The value thereof, at a low estimate, as this affiant believes, was $5,500. It was taken on or about the 15th July, 1862.

And affiant further states that, by order of the United States post-commander of Nashville, in like manner three large iron lathes belonging to said publishing house were taken from his possession on or about the 10th January, 1863, and removed a short distance to another government building where they were used by the United States Army for the turning of cannon and other metals. They were returned on or about 15th December, 1865.

Affiant further states that while this house was so in the possession of the Army, certain alterations were made in the interior of the building, for the benefit of the government and its workmen; and that in the belief of this affiant it would cost $5,000 to restore the house to its original condition.

And this affiant further says that he has made careful estimate of the personal property, machinery, implements, and merchandise of all kinds in said publishing house, and put into the service of the United States and used by the Army as above explained; and he believes the value to be as follows, according to the best data within reach: The merchandise in front stores he values at $180,000, and the machinery, type, presses, bindery, &c., at $312,000.

Affiant further states that he has made careful estimates and cost of the damage to the merchandise in the front stores, to make room for the government saddlery and workmen as above explained, and believes it to be 50 per cent. on the value thereof at a low and fair estimate.

And affiant further states that when the Army took possession of the said publishing house, its machinery was supplied throughout with a complete set of belting, which was worn out by the Army printers in the service of the United States, and rendered worthless.

Affiant further states that while the said Army took and kept actual possession of all the merchandise of every kind in the front stores and sales-rooms, they did not actually consume the whole of the same, for that some of it was returned to this affiant when the whole property was restored; affiant has made careful examination of all data within his reach to ascertain as nearly as practicable the amount thereof which was actually used and consumed by the said Army, and he estimates and values the same at $90,000.

Affiant further states that he had in his possession, made at the proper times and by the proper officers, the regular orders and receipts for the three iron lathes, and for the job-office for the government engineers, above spoken of; but the copies of said orders and receipts were accidentally destroyed by fire.

R. ABBEY.

Subscribed and sworn to before me the 1st of October, 1872.
[NOTARIAL SEAL.]

JOSIAH FERRISS,
Notary Public.

HOUSE OF REPRESENTATIVES.
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of John W. Carter.

STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferris, a notary public in and for said county and State, John W. Carter, a man well known to me, who, being duly sworn, deposes and says that in the year 1863, and for about six years previously, he was a clerk in the Southern Methodist Publishing-House; that he usually lodged in the house and was well acquainted therein during all the time said house was occupied by the Army of the United States in the year 1864 and 1865. He further says that when the said Army took possession of said publishing-house, Mr. R. Abbey, the agent in charge of same, had recently built a store in a vacant space in front of said premises, which store was torn down and removed by the Army workmen of said Army to make more easy access to the book buildings, for the accommodation of the Army printers moving the printing-machinery, &c., of said publishing house.

This affiant does not know of his own knowledge the precise value of said new store, but from his knowledge of stores and rent in Nashville at that time; but believes the said store would have rented for about a thousand dollars a year.

This affiant also knows that while the said Army of the United States occupied the said house there were various alterations, changes, &c., made therein for the accommodation and benefit of the said Army workmen, such as removing shelving, making stairs, cutting away cornice, making privies, sewers, &c. He does not know what it would cost to restore the said premises to the original condition before the changes and alterations were made, but from the best of his knowledge and belief, approximating such cost, he estimates it at five thousand or thereabouts.

J. W. CARTER.

Subscribed and sworn to before me the 19th October, 1872.
[NOTARY SEAL.] JOSIAH FERRIS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavit of J. M. Hudson.

STATE OF TENNESSEE,
Davidson County:

Personally appeared before me, Josiah Ferris, a notary public in and for said county and State, John M. Hudson, a man well known to me, who, being duly sworn, deposes and says, in addition to what he has formerly stated in a deposition previously made touching the occupancy and use by the Army of the United States of the Southern Methodist Publishing House in the years 1864 and 1865, that the belting on the machinery in said house taken and worn out by said Army in using the same in doing the government printing, as stated in the said former deposition, was of the value of seven hundred and fifty dollars, in the judgment of this affiant as machinist, according to the best and most accurate estimate he is able to make of the same.

J. M. HUDSON.

Subscribed and sworn to before me this 23d day of October, 1872.
[NOTARY SEAL.] JOSIAH FERRIS,
Notary Public.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a deposition now on file before said committee.

Given under my hand this eleventh day of December, one thousand eight hundred and seventy-six.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Certificate of Sam. M. Harrison.

OFFICE OF UNITED STATES LOCAL INSPECTOR OF STEAM-VESSELS,
Nashville, October 1, 1872.

This is to certify that I am personally acquainted with William G. Dashiell, the present chief engineer of the Nashville water-works, and I know him to be a gentleman and a first-class engineer, and would give credit to any statement he might make.

SAM. M. HARRISON,
U. S. Local Inspector Boilers, Nashville, Tenn.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Certificate of Edward H. East.

I have known A. L. P. Green, Thomas D. Fite, Thomas O. Summers, Hugh Carroll, W. R. Warren, J. W. Hunter, William H. Bang, A. H. Redford, Richard Abbey, and Robert T. Spillers for many years, none of them for less than five years, and many of them for more than twenty years. They are personally among the best class; no better citizens can be found in this or any other community. They are gentlemen of intelligence (some of them in a high degree), of the most conscientious regard for truth, and entitled to full faith and credit under all circumstances.

I am, respectfully,

EDWARD H. EAST.
Chancellor of the Seventh District of Tennessee.

SEPTEMBER 30, 1872.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true and correct copy of a certificate now on file before said committee.

Given under my hand this 11th day of December, 1876.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Certificate of R. R. Campbell.

UNITED STATES OF AMERICA,
Middle District of Tennessee:

I, E. R. Campbell, clerk of the circuit court of the United States for the district aforesaid, do hereby certify that I am well acquainted with the standing and reputation of Rev. A. L. P. Green, Thomas D. Fite, Rev. Thomas O. Summers, Hugh Carroll, Rev. W. R. Warren, J. W. Hunter, Wm. F. Bang, A. H. Redford, and Rev. Richard Abbey, and from my knowledge of the men, and also from their general reputation, would say that they are entitled to full faith and credit in any deposition or otherwise. In fact, they rank among the best and most substantial men of Nashville, and implicit faith would be given them before the courts.

[SEAL.]

E. R. CAMPBELL,
Clerk United States Circuit.

NASHVILLE, TENN., *September* 30, 1872.

HOUSE OF REPRESENTATIVES,
Washington, D. C., December 11, 1876.

I, W. C. Garrard, clerk of the Committee on War-Claims of the House of Representatives of the Forty-fourth Congress, do hereby certify that the foregoing is a true copy of a certificate now on file before said committee.

Given under my hand this eleventh day of December, one thousand eight hundred and seventy-six.

W. C. GARRARD,
Clerk of the Committee on War-Claims of the House of Representatives.

Affidavits of Rev. John B. McFerrin and Rev. R. Abbey, relative to claim of the Southern Methodist Publishing House.

Personally appeared before me, Josiah Ferris, a notary public in and for Nashville, in the county of Davidson, Tennessee, John B. McFerrin, a man well known to me, and, being duly sworn, deposes and says that in May, 1858, he being a Methodist minister, was elected by the General Conference of the Methodist Episcopal Church South, the general agent of the Southern Methodist Publishing House, in Nashville, Tennessee, the Rev. R. Abbey being at the same time and by the same General Conference elected financial secretary of the same publishing house, the same being a corporation chartered by the legislature of Tennessee; and that this affiant and the said Abbey continued to discharge their several duties as above designated, and so, jointly to manage said publishing house until about the middle of February, 1862, when this affiant left Nashville, and did not return until May, 1865. And affiant further states that in the period from June, 1858, to February, 1862, when the affiant left Nashville as above, the business and finances of said publishing house were under the sole control of himself and said Abbey.

Affiant further states that during his connection with said publishing house as general agent as aforesaid, no part of the building, machinery, types, presses, or other property of said publishing house was permitted to be used by or for the benefit of the Confederate army, so called; nevertheless, prior to the 16th of February, 1862, some of the machinery of said house was for a time used for the benefit of said Confederate army under imperative demand. Some of the printing presses and types were also used in the period above named for the printing of a book to be for the use of the Confederate army, called "Hardee's Military Tactics"; but this book was not published by said publishing house, but by the State of Tennessee, while the Confederate forces occupied Nashville. The work was simply done as a job—not directly for the State, but for J. O. Griffith & Co., who were the State printers.

[SEAL.] J. B. McFERRIN.

Subscribed and sworn to before me the 17th day of January, 1874.

JOSIAH FERRIS,
Notary Public.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Before me, the subscriber, a notary public within and for the district and county aforesaid, duly commissioned and qualified, personally appeared the Rev. Richard Abbey, who having been duly sworn, deposes and says: That from the month of May, 1858, until the 17th of February, 1862, he and the Rev. J. B. McFerrin, D. D., were the agents who had the entire management and control of the corporation in Nashville, Tennessee, chartered by the legislature of Tennessee, under the name and style of "The Book Agents of the Methodist Episcopal Church South," and commonly known as the "Southern Methodist Publishing House"; and that from the said 17th of February, 1862, until after the close of the war of the rebellion, he, the said affiant, had the entire management and control of said corporation and its business, being, without intermission, actively and practically engaged in said duties from said month of May, 1858, till the month of April, 1866.

Deponent further says, that during the entire period of 1860 and 1861, and as long as the said McFerrin continued in the said business, as above stated, it was distinctly agreed and understood between them that suitable care must be taken by them that the said publishing house, being a church institution, must be kept, as far as possible, entirely aloof from all connection, entanglement, or alliance with the civil and military strife and commotion then threatening the country so fearfully. This understanding, affiant believes, was strictly and faithfully carried out as far as was in the power of said agents during the entire period above named. And so, in pursuance of this understanding, none of the property, machinery, or implements of any kind of this institution, was at any time or to any extent used by them, or permitted to be used in any way for the benefit of the so-called Confederacy, or to encourage secession of States, or for the Confederate army or soldiers, their adherents, their government, or their cause.

Nevertheless, the following things are true, viz: During several weeks, affiant does not know how long, but up to the time of the capture of Fort Donelson, the 16th February, 1862, a portion of the machinery of said publishing house was used by the Confederates, or for their benefit, in the manufacture of war-like iron; but this was done under military coercion and against the consent of the proper authorities of said publishing house. The city of Nashville was then in the unmolested possession of Confederate troops, where they were improving their military equipments. By order of the governor of Tennessee, as affiant understood and believes, a book was printed at said publishing house called Hardee's Military Tactics; but over this matter the house had no control, under the circumstances. A weekly newspaper was published at the same house, by order of the General Conference of the Methodist Episcopal Church South, called the Christian Advocate. In that paper, several articles or paragraphs were inserted by the local editor, at different times, the tend-

ency of which was to encourage the Confederates and secession. But neither the publishing house nor any of the officers thereof had any control or right of control of the editor of that paper as to what he would or would not print in it, he being placed there by and responsible only to the said General Conference.

Affiant further states that no moneys of said publishing house were ever used, paid, or in any way appropriated for the use, benefit, or advantage of said Confederates, either in the purchase of Confederate bonds or otherwise, so far as he knows or believes. He was the financial secretary of said publishing house for eight years, during the entire period of the late war, and he has no recollection of ever seeing a Confederate bond.

It is intimated it might be further proper to state here what portion of the officers or employès of said publishing house went South with the Conredérates, on the evacuation of Nashville or afterward. The agents, editors, superintendents of manufacture, foremen, etc., of the house at that time were about twenty or more in number, as well as recollected; of these, one of the two agents and two of the three editors went South, all the rest remaining, as well as now recollected. Affiant is unable to recollect that any of the printers, binders, or other operatives or employés of said house went South with the Confederates, or that any of those remaining were ever seriously charged with being or were generally considered disloyal to the United States.

Affiant further states that after the said 17th February, 1862, and until the close of the war, he held no correspondence with any person or persons within the Confederate lines touching the affairs of said publishing house, nor would he at any time in the war have received or entertained any demands, requests, or counsel from anybody in that quarter on the subject of said business. At one time such a request was made in regard to a particular matter of not much importance, but was promptly declined.

And further this deponent sayeth not.

R. ABBEY.

Sworn and subscribed before me this twenty-ninth day of January, in the year eighteen hundred and seventy-four.

[SEAL.]

N. CALLAN,
Notary Public, City of Washington, D. C.

[Extract from the Discipline of the Methodist Episcopal Church South.]

"SEC. XXIII. OF THE RULERS OF THE UNITED STATES OF AMERICA.

"The President, the Congress, the general assemblies, the governors, and the councils of state, as the delegates of the people, are the rulers of the United States of America, according to the division of power made to them by the Constitution of the United States, and by the constitutions of their respective States. And the said States are a sovereign and independent nation, and ought not to be subject to any foreign jurisdiction."

By the above fundamental law the Methodist Episcopal Church South was placed of old, and has ever remained, under the protection of the Constitution and laws of the United States; but its well-known and highly-cherished policy is, to have nothing whatever to do with any civil or political questions. And so, in the time of the late war, the church, that is, that portion of it which then had legal existence in the United States, by the advice of competent counsel, held a general convention in Louisville, Ky., in April, 1864, at which its ancient and unchanged relation to the United States was, among other things, fully asserted. But this declaration of loyalty to the existing government, though frankly and fully expressed, did not infringe upon its sacred doctrine of total non-interference in civil and secular questions. After the Southern people were readmitted to their former citizenship by the government, and so, the church reunited, the General Conference of the whole church, which sat in New Orleans in April, 1866, formally "approved the acts and doings" of this convention of 1864, and paid its expenses. All this is in full proof before Congress.

R. ABBEY, *Agent, &c.*

WASHINGTON, D. C., *Jan.* 30, 1874.

VIEWS OF THE MINORITY.

The undersigned, members of the Committee on Claims, to whom the claim of the book-agents of the Methodist Episcopal Church South was referred, submit the following as their views in the case:

The claimant, the book-agents of the Methodist Episcopal Church South, claims compensation for the use and occupation by the Army of the United States of a certain building, and the machinery therein, situated in the city of Nashville, Tenn., from the first day of January, 1864, until the 13th day of December, 1865.

The claimant is a corporation owned and controlled by the general conference of the Methodist Episcopal Church South, and was organized for the purpose of publishing church literature. The real beneficiary then is, the general conference of the Methodist Episcopal Church South.

The claimant alleges that for the use and occupation of said building and machinery, as well as damages sustained by reason of some changes made in the building, it has sustained damages to the amount of four hundred and fifty-eight thousand four hundred dollars. But the agents of the claimant are now willing to accept much less than that amount. This claim was presented to the Forty-third Congress and received the attention of the Committee on War-Claims of the House of Representatives; and on the 22d of June, 1874, the committee reported the claim adversely; the report was signed by William Lawrence, G. W. Hazelton, A. Herr Smith, James Wilson, J. Allen Barber, W. S. Holman; and its conclusion that the claim be disallowed was concurred in by W. R. Morrison. The claim was presented to the Forty-fourth Congress, and not having been acted on, was renewed at this session of Congress.

The property was situated in an insurgent State, and by virtue of its location became enemies' property. We need not cite the opinions of learned jurists of foreign countries nor the writers on international law, as the Supreme Court of the United States has repeatedly recognized this as the law applicable to cases of this character. (See Prize cases, 2 Black, 628; Mrs. Alexander's cotton case, 2 Wall., 418; Miller *vs.* United States, 11 Wall.; Bentzon *vs.* Boyle, 9 Cranch, 191, 197, 199; Kent's Commentaries, vol. 1, sec. 74.)

Not only was the property enemies' property, because of its location, but it was the property of a corporation that was a resident of an insurgent State, and therefore it was to be treated as enemies' property because of its ownership. (Prize cases, 2 Black, 670, 674; Mrs. Alexander's cotton case, 2 Wall., 419, 421, 422; Miller *vs.* United States, 11 Wall., 305, 306.)

It is not material to inquire, if we propose to be governed by the strict rules of international law, whether the owner was loyal or disloyal. The majority of the committee say that "it cannot be imputed to this great ecclesiastical body that it took grounds against the Government of the United States during the war." The majority of the committee having thus presented this issue, we think it proper to inquire what are the undisputed facts of history in connection with the attitude of this great ecclesiastical body toward the Government of the United States during the late war. We cannot, in the strict sense of the term, say the corporation was disloyal, but it may be that its corporators and stockholders, its officers and managers, were disloyal; and, if so, the corporation must be treated as disloyal, and it must suffer for the dis-

loyal acts of its disloyal members. (See Angell and Ames on Corporations, 9th ed., secs. 311, 382, 385.)

It was said at one time that a corporation could not be guilty of trespass, but that theory has long since been abandoned; and if a trespass may be proved against a corporation by proving the wrongful acts of its officers and members, we think a corporation may be shown to be disloyal if we show its officers and members were disloyal, and made the corporation an agent for and the means of carrying out their disloyal ideas.

The affairs of the corporation were, at the time of the breaking out of the rebellion, managed by the Rev. John B. McFerrin, as general agent. The Rev. R. Abbey was its financial secretary.

The book-agents published, at the publishing house, a newspaper ostensibly devoted to church literature, and called the Christian Advocate. This paper was edited by three editors, who were selected as all the other officers of the book-agents were selected, that is, by the general conference.

That the Christian Advocate, so published by the book-agents, was a disloyal paper will not be denied by those familiar with its publication during the winter of 1860 and 1861 and up to the time that its publication was suspended. It was a paper of large circulation and of great influence among the members of the Methodist Church South.

Not only was the church organ a secession organ, but when it became impossible for its editors to continue its publication on account of the pressure of the Army of the United States, two of its editors retreated with the Confederate army south, and were accompanied in their flight by the general agent of the corporation, Dr. McFerrin.

But before leaving the city of Nashville, and while in charge of the property, the general agent allowed the Confederacy to use some of the machinery of the corporation in the manufacture of arms for the Confederate Government. It is claimed by the general agent, in his affidavit, that this use was "*under imperative demand.*" The printing-press, type, &c., were also used to print Hardie's Military Tactics for the use of the Confederate Army, and it appears from the same testimony that *this* work was *not* under "*imperative demand,*" but was done as a job.

It also appears that during the latter part of the year 1861 the publishing house published a work entitled "The Confederate States of America in Prophecy," by the Rev. W. H. Seat, of the Texas Conference of the Methodist Episcopal Church South. The character of the work can be seen by reference to the report made by the House committee of the Forty-third Congress, before alluded to. (Report 777 of Forty-third Congress.) A more impious publication cannot be found among all the wild and fanatical publications of the exciting times of the war.

This corporation, then, not only published a disloyal newspaper, a wicked and blasphemous work entitled "Confederate States of America in Prophecy," but also allowed its machinery to be used in the manufacturing of arms and munitions of war, and its type and press to be used in the publication of military tactics for the Confederate army.

The full sympathy of its officers and managers with the rebellion is shown from the fact that its general agent and two of its editors preferred to take their chances with the Confederacy, in flight from Nashville, rather than to remain and face the victorious Army of the Union, with which it is now contended they were in sympathy.

It would tax our credulity to the utmost to believe that any considerable portion of the membership of that church residing in the insurgent States were loyal to the government during the war, except in the

eastern part of Tennessee, and in the mountainous regions of the States bordering on East Tennessee.

If this organization, now claiming compensation for their losses sustained by war, was disloyal, it has no claim on the generosity of the government, and ought to rest its claim on the law, and on the law only.

This claimant was then disloyal in law and disloyal in fact. It had no claim, while a state of war existed between the Government of the United States and the insurgent State where its *habitat* was, and where its property was also situated, to the protection of the Government of the United States for damages sustained either at the hands of the Army of the United States or the army of the Confederacy. It was an alien enemy without the protection of law, except such as the law of nations and the acts of Congress conceded to an alien enemy. It was to be treated in all respects as if it had never been a citizen of a State in the Union.

When the war ceased, and the government saw fit to recognize such former enemies as citizens of the United States, then, and then only, were they entitled to the protection guaranteed under the conditions. But when they were reinstated to their former citizenship, the government was under no obligation, either moral or legal, to redress the wrongs they had suffered while alien enemies.

But Congress, recognizing the fact that while by the strict rules of law all citizens of insurgent states were public enemies, yet many in fact were loyal at all times to the government under circumstances that called for a recognition on the part of the government of such loyalty, mitigated the strict rules of law by providing that loyal citizens who could rebut the presumption of disloyalty arising from their residence might do so and might recover of the government certain losses sustained by them. But the government made no provision for a case of this character, although the owner might have been loyal to the government. [See Mrs. Alexander's cotton case, 2 Wall., 422, 423.]

The government might have treated all alike, whether they sustained their losses in an attempt to overthrow the government or through the misconduct of their fellow-citizens.

And it has been the policy of the government to treat all alike unless the losses fell within the rule laid down in the statutes.

The Committee on Claims reported against the claim of Elisha Bass, for compensation for the use of a piece of land and buildings thereon in Texas occupied by the Army of the United States for about five years, on the ground that the land, being in an insurgent State, was by virtue of its location enemy's property, although it was admitted that Bass had ever been a loyal citizen, and was not at any time during the war a citizen or resident of an insurgent State. In that report the Senate concurred. If such was the law applied to a loyal citizen, it ought to be the law applied to a disloyal one.

The Supreme Court early in the war declared that there was no right of compensation for the use or destruction of the property of a belligerent, and in the Prize cases (2 Black, page 671) the court says: "The right of one belligerent not only to coerce the other by direct force, but also to cripple his resources by the *seizure or destruction* of his property, is a *necessary result* of a state of war." The court said, in the same case, on page 673, that the Government of the United States might exercise (in the war of rebellion) the rights of belligerents as well as the rights of a sovereign.

It is said that there are some peculiar features in this case that entitles it to the special consideration of Congress.

First. That General Buell, when he was about to take possession of the

city of Nashville, was met by the mayor of the city and a committee of citizens, who had been instructed by the city council "to inform the commander of the condition of Nashville, and invite him to occupy and protect the city;" and thereupon General Buell assured the mayor and committee "that protection to both person and property of all peaceable citizens would be fully extended by the Army of the United States," and requested the mayor so to inform the people of Nashville.

Now it does not appear that the city surrendered on account of such promise made by General Buell. It was not a capitulation on terms.

The Confederate soldiers had left Nashville before the mayor and committee had requested the invading army to enter, and we suppose no one will doubt but that General Buell would have entered without such invitation. No proclamation was made by General Buell, and what he did say in reply to the mayor and committee must be a subject of conjecture. He doubtless assured them that he would observe the rules of war recognized among civilized people.

If more had been intended, he would have put it in the form of a proclamation. He need not have done more than that. He was at the city; it was without defenders; behind him was an army flushed with victory. Why should he under these circumstances abandon the rights of the government as a victorious invader? He knew the war was not over; he knew the rights that the government had acquired over the conquered city, and it is not reasonable to suppose he abandoned any rights that the government had under the laws of war. Besides, the affidavit of the mayor in this case shows that the guarantee so made was carried out and observed *so far as a state of war would reasonably admit.* [See affidavit of Cheatham, February 6, 1874.]

If General Buell had by proclamation declared that the Army would respect private property, it would have been no broader in terms than the proclamation of General Butler when he entered New Orleans, and the Supreme Court declared that his proclamation "did not exempt private property within the occupied districts from liability to confiscation as enemy's property if in truth it was such." [See Planters' Bank *vs.* Union Bank, 16 Wall., 483, (495-6).]

It is said that General Buell's order issued to the Army on the 26th of February is a pledge that private property should not be taken.

The order is as follows:

[GENERAL ORDERS.]

HEADQUARTERS DEPARTMENT OF THE OHIO,
Nashville, Tenn., February 26, 1862.

The general commanding congratulates his troops that it has been their privilege to restore the national banner to the capital of Tennessee. He believes that thousands of hearts in every part of the State swell with joy to see that honored flag reinstated in a position from which it was removed in the excitement and folly of an evil hour; that the voice of her own people will soon proclaim its welcome, and that their manhood and patriotism will protect and perpetuate it. The general does not deem it necessary, though the occasion is a fit one, to remind his troops of the rule of conduct they have hitherto observed and are still to pursue.

We are in arms not for the purpose of invading the rights of our fellow-countrymen anywhere, but to maintain the integrity of the Union and protect the Constitution under which its people have been prosperous and happy.

We cannot therefore look with indifference on any conduct which is designed to give aid and comfort to those who are endeavoring to defeat those objects, but the action to be taken in such cases rests with certain authorized persons, and is not to be assumed by individual officers and soldiers; peaceable citizens are not to be molested in their personal property; all wrongs to either are to be promptly corrected, and the offenders brought to punishment. To this end all persons are desired to make complaint to the immediate commander of officers or soldiers so offending, and if justice be not done promptly, then to the next commander, and so on until the wrong is redressed. If the necessities of the public *service should* require the use of private property to public purposes, fair compensation is to *be allowed.*

No such appropriation of private property is to be made except by the authority of the highest commander present; and any other officer or soldier who shall presume to exercise such privilege shall be brought to trial. Soldiers are forbidden to enter the residences or grounds of citizens, on any plea, without authority.

No arrests are to be made without the authority of the commanding general, except in case of actual offense against the authority of the government; and in all such cases the fact and circumstances will immediately be reported in writing to headquarters through the intermediate commanders. The general reminds his officers that the most frequent depredations are those which are committed by the worthless characters who straggle from the ranks on the plea of being unable to march, and where the inability really exists it will be found in most instances that the soldier has overloaded himself with useless and unauthorized articles. The orders already published on this subject must be enforced.

The condition and behavior of a corps are sure indications of the efficiency and fitness of its officers. If any regiment shall be found to disregard that propriety of conduct which belongs to soldiers as well as citizens, they must not expect to occupy the posts of honor, but may rest assured that they will be placed in position where they cannot bring shame on their comrades and the cause they are engaged in. The government supplies with liberality all wants of the soldier. The occasional deprivations, in hardships incident to rapid marching, must be borne with patience and fortitude. Any officer who neglects to provide properly for his troops and separates himself from them to seek his own comfort, will be held to a rigid accountability.

By command of General Buell:

JAMES B. FRY,
Assistant Adjutant-General, Chief of Staff.

Official:

J. M. WRIGHT,
Assistant Adjutant-General.

As this was not a stipulation with the people of the city of Nashville, and was only for the government of the Army, the commanding general might have changed it the next hour after it was issued; and it cannot be said that it was binding on General Thomas, who succeeded General Buell. On the 24th of April, 1863, the government, through the War Department, issued an order, numbered 100, in which it was declared "that *churches*, *hospitals*, or other establishments of an *exclusively charitable character*, *establishments of education*, museums, &c., may be taxed or used when the public service may require it." These instructions have the same force in the government of the Army that statutes do, and as this was the law when the property of claimant was seized by *General Thomas*, it is decisive of the question of liability of the government.

It is said sometimes that the policy of enlightened nations has been to avoid destroying charitable and religious institutions. This is true, and the Government of the United States recognized this as a wise and humane policy, reserving to itself the right, however, to use such property when the interests of the Army demand it. But can it be said, because it is a wise and humane rule to save from the ravages of war property of this character, that when the necessities of the Army required its use, or the accidents of war caused its destruction, the government must pay for the use, or make good to the hostile owner the loss sustained by its destruction?

We know of no instance where compensation has been allowed in cases of that character; and it is not necessary that compensation should be made to establish the rule that property of that character should, as far as possible, be exempt from the ravages of war. Whether the necessities of the Army required the use of the building of claimant was a question submitted by law to General Thomas. He decided that question; and such decision ought not, after a lapse of so many years, be revised by Congress.

The government may lawfully, in time of war, make use of the property found in an insurgent State, when needed for the use of the Army, and that, too, whether the property of a citizen of such insurgent State or the property of a citizen of another and loyal State; and this is true

of all kinds of buildings, including *churches*, colleges, and buildings of that character.

The government proceeded on this theory of the law, for we find that such was its practice when its Army went into the insurgent States, and in the instructions issued to the Army April 24th, 1863, the government says:

That the United States acknowledges, and protects in hostile countries occupied by the United States Army, private property.

This *rule* does not interfere with the right of the victorious invaders to *tax the people* or *their property*, to levy forced loans, to billet soldiers, or to appropriate especially *houses*, *lands*, *boats*, *ships*, and *churches* for temporary military uses. [See Scott's Military Digest, page 447, sec. 1177.]

These instructions were proposed by the late Dr. Lieber, and it is safe to say that no man in the United States was better qualified for that task than he; they embodied the rules of warfare recognized and enforced among the most civilized and enlightened nations of the world.

This being the law of nations, and especially recognized by the government in its rules for the government of its Army, by declaration, as it had been in practice from the commencement of the war, it cannot be said that the promise of General Buell, if we admit it was made, as claimed, could have protected their property.

It is sometimes said that the Constitution prohibits the government from taking and using even as a military necessity the property of a citizen without just compensation. This provision of the Constitution does not apply to a case of taking property under a military necessity even if it is owned by a loyal citizen.

[See Gilman *vs.* City of Sheboygan, 2 Black, 513; Township of Pine Grove *vs.* Talcott, 19 Wallace, 675.]

But in this case it will not be contended that the government was restrained by a Constitutional prohibition from taking the property of an alien enemy; as such alien enemy it had no right to invoke the aid of the Constitution for the protection of its property.

It is also stated that the government attempted to confiscate the property, and afterwards abandoned such confiscation proceedings, and thereby admitted—

First. That the claimant was loyal.

Second. That the claimant was the owner of the property.

This cannot be the effect of the failure of the government to proceed with its attempt to confiscate the property.

The government had no right to confiscate the property of the corporation, even if its disloyalty was admitted. The confiscation act does not provide for the confiscation of the property of a corporation. [See Planters' Bank *vs.* Union Bank, 16 Wall.]

The right of the government to confiscate was not derived from the statute. The method to be pursued having been provided for by statute no other course could be pursued than that provided for in the statute. The statute having declared what property should be confiscated, none other could be confiscated. [Planters' Bank *vs.* Union Bank, 16 Wall.]

But the right to seize the property of a public enemy was not by the statute at all interfered with, and inasmuch as the right to seize the property of the public enemy, even if it was a corporation, existed without statute, it cannot now with reason be said that a failure to provide for the confiscation of the property of a corporation that was a public enemy by virtue of its *habitat*, or by reason of the *situs* of the property, is a declaration that the government would not exercise its right, under the laws of war, to seize such property, whenever the necessity or interest of the government required such seizure.

The occupation by the government of the property was legal for the following reasons:

1. The property was situated in an insurgent State and must be treated as enemie's property.

2. Because the property had been used by the public enemy for warlike purposes and might be so used again.

3. Its owner was disloyal.

For any one of these causes the government might have seized and occupied the property, without a violation of the laws of nations.

For the first and second causes the government might have so used and occupied it, although it belonged to the commanding general of the United States Army.

For the second cause the government might have destroyed the property without a violation of the rules of warfare recognized among civilized people.

Upon what theory can the claimant recover of the government the losses it has sustained? Certainly not on any law recognized by the enlightened nations of the earth. If at all, it will be in the face of repeated decisions of the Supreme Court of the United States. It will be against the decision of every department of the government, legislative, judicial, and executive. It will be in violation of the rules of the laws of warfare recognized among all civilized people.

If we allow this claim it will be cited as a precedent in cases that will be presented to Congress for years to come.

Having once recognized the liability of the government in a case of this kind, it will not be easy to deny the same relief in cases of like character. There is not a corporation in the late rebellious States that suffered losses growing out of the war that cannot present as strong a case of loyalty as this corporation has done. There are thousands and tens of thousands of men in the South who have as much claim on the government as has this claimant, and if we are to vote money out of the Treasury because this is a needy corporation, or because it will make good use of the money so voted to it, we shall find the same reasons given for like claims on the government by corporations and individuals.

The claimant has neither a legal or moral right to the money proposed to be paid to it. And the case, fairly presented, is an attempt to obtain a donation from the government to a great religious denomination because it has many influential supporters.

It is said by the majority of the committee that no private claim was ever presented to Congress so extensively and earnestly supported as this claim is, and, after giving the character of the memorialists, say that—

These memorials indicate a sentiment which is honorable to the people and most gratifying to all who desire that our past differences may cease to be remembered as causes of present ro future discord, but may only be adverted to as admonitions to warn us against like evils.

Is it necessary "that our past differences may cease to be remembered as cause of present or future discord" that we shall, in utter violation of the law of the land heretofore recognized by all departments of the government, make good the losses sustained by the rebels in law and rebels in fact, while we refuse to make compensation to loyal citizens for the losses they sustained, because in their cases we adhere to the strict rules of law? Anxious as the people are who were loyal to the government that past differences be forgotten, they are not quite willing to make good the losses sustained by rebellious citizens in the effort to destroy the government, even to secure that era of good feeling of which we hear so much, and the beneficial effects of which we see so little.

Cheerfully have the people borne the great burden of taxation imposed on them by the war, because they have felt it was necessary to be borne to maintain the honor and plighted faith of the nation, and they will continue to pay the necessary taxes imposed, even if still more burdensome, if they are satisfied that such payment is necessary to maintain the national credit and sustain the national honor; but will the people continue to pay these taxes without complaint if Congress shall increase their taxes by compelling them to pay claims of this character? Congress refuses frequently to grant a pension of a few dollars per month to the widows and orphan children of the dead soldiers of the late war on the barest technicalities of the law.

For nearly eight years there has been on the files of the Senate of the United States the petition of eight widows, who allege that their husbands were enlisted soldiers of the United States, and were killed by the Confederate soldiers during the fore part of the year 1863. These widows ask of the government the pensions that they are entitled to under the laws of the United States, as the widows of private soldiers. This petition has been refused by Congress, not because the recitals of the petition were disputed, but because the dead soldiers had not been technically mustered into the service of the United Sates. The Senate refused to take into consideration the distance they were from Federal lines, and the impossibility of their being mustered. The heroism and courage of these men, and their fidelity to their principles, has few parallels in the history of the world, and their conduct must command the admiration of mankind while the love of country shall be considered a virtue. Controlled by the bare technicalities of the law, the widows and orphan children of the patriotic dead are left to starve, or support life as they may, without the aid of the government, because no legislative bodies, no church conference, no aristocratic and imposing array of governors, lawyers, doctors, and divines, have taken sufficient interest in their case to press its consideration.

Shall this be a government restrained by the technical rules of law when the widows and children of its dead soldiers appeal to Congress, but a government unrestrained by law when its former enemy demands compensation for losses sustained during a war that such enemy was one of the chief agents in bringing on?

We cannot afford, with a pension-roll incurred by this war with more than a quarter of a million names, with over one hundred thousand applications still pending in the proper department of the government for pensions to our soldiers, their widows and orphans, to make this disloyal corporation, this agent of rebellion, the recipient of the government bounty, while we turn a deaf ear to the thousands and tens of thousands of meritorious cases presented by our wounded soldiers, by widows and orphans of the patriotic dead, because the cases do not fall within the technical rules laid down by statute for the granting of pensions.

It is not charity that these soldiers, widows, and orphans demand; it is justice; but that must be determined by the law. The government must discharge all its obligations, but has no right to donate the people's money to any person or corporation, however needy or deserving such corporation or person may be, and as there is neither a moral nor legal obligation resting on the government to make good the losses of the claimant, we recommend that the claim be disallowed.

H. M. TELLER.
S. J. R. McMILLAN.
ANGUS CAMERON.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 147.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 221.]

The Committee on Pensions, to which was referred the bill (S. 221) granting a pension of fifty dollars a month to Mary Kirby Smith Eaton during her widowhood, have considered the same and report:

Mary K. Smith was pensioned as widow of Ephraim K. Smith, who was a captain in Fifth Regiment United States Infantry, at the rate of $20 per month, commencing September 11, 1847, subsequently increased to $25 per month.

March 9, 1863, was pensioned as mother of Col. J. L. K. Smith, killed at Corinth, Miss., in war of rebellion, pension to commence October 12, 1862, deducting payment on $25 pension since that date.

In 1870 she married General A. B. Eaton, whereby she lost her right to a pension.

General Eaton died ——— ———, and his widow, the claimant, now petitions for pension of $50 per month.

The statement of Surgeon-General Barnes shows that General Eaton died of disease contracted in the service in the line of duty.

The committee report back the bill and recommend its passage, with an amendment in line 7 striking out the word "fifty" and inserting in lieu thereof the word "thirty," and amendment of the title to the bill to correspond with the amendment in the body of the bill.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 148.

IN THE SENATE OF THE UNITED STATES.

MARCH 8, 1878.—Ordered to be printed.

Mr. GROVER, from the Committee on Private Land Claims, submitted the following

REPORT:

[To accompany bill S. 520.]

The Committee on Private Land-Claims, to whom was referred the bill (S. 520) to authorize claimants to certain lands in Santa Barbara County, California, to submit their claims to the United States district court for that State for adjudication, submit the following report:

The attorneys for the claimants have submitted a printed pamphlet containing their petition to Congress, and copies of all affidavits and matters of record which have been filed in the office of the Commissioner of the General Land-Office, for the purpose of procuring a withdrawal of the lands in question from disposal by the United States, pending this application, as well as for the purpose of perpetuating testimony. An examination of the original papers in the General Land-Office has been made, and the printed copies have been compared with the originals and found to be true copies.

By these evidences it appears that Miguel Cordero, a Mexican citizen, in the year 1834, settled upon the lands since known as the "Rancho Las Cruces," now in Santa Barbara County, California, but then within the domain of Mexico. That in the year 1837 said Cordero, on his petition, received from the proper authorities a grant, evidenced of record in the usual form, to said rancho, two leagues in length and one league in width, marked by certain distinct natural boundaries, which have since been definitely ascertained by survey, according to the public surveys of the United States. That the usual judicial possession was given by the neighboring alcalde in due form required by the laws of Mexico.

The keeper of the Spanish and Mexican archives in the United States surveyor-general's office for California certifies that the original documents in this case are genuine; that the copies are true translations; and that they constitute what would have been considered a perfect grant under the Mexican Government of California. He further certifies that he is familiar with the section of country in which the said tract of land is located, and that the same can, without difficulty, be ascertained from the calls of the title-papers and the accompanying map. In fact the record presents every link in the chain of a perfect expediente. The treaty of Gaudalupe Hidalgo, concluded May 30, 1848, between the United States and Mexico, by which California was acquired by the United States, found Cordero and his family in possession

of Las Cruces, improved with orchards, vineyards, and grain-fields, and largely stocked with cattle and horses.

The treaty provided (Article 8) that "Mexicans now established in territories previously belonging to Mexico and which remain for the future within the limits of the United States, as defined by the present treaty, shall be free to continue where they now reside, or to remove at any time to the Mexican Republic, retaining the property which they possess in said territories."

The cession did not impair the rights of private property. They were consecrated by the law of nations and protected by the treaty. (U. S. v. Moreno, 1 Wall., 404.)

By act of Congress of March 3, 1851, authority is given for a board of commissioners to ascertain and settle private land-claims in California, originating under the Spanish or Mexican Governments, and for a confirmation of the same, with right of review in the United States district courts and appeal to the Supreme Court of the United States. (9 Stat., 63.)

Section 13 of this act provides, among other things, that "all lands, the claims to which shall not have been presented to said commissioners within two years after the date of this act, shall be deemed, held, and considered a part of the public domain of the United States." This limit was subsequently extended to March 3, 1855.

In March, 1851, after the passage of the last named act, but before its promulgation in California, Cordero died intestate, in possession of the Rancho Las Cruces. The premises were distant from the sitting of the commission subsequently organized to pass upon this class of titles. The family spoke none but the Spanish tongue, read no newspapers, and were wholly illiterate. The Mexican authorities had cared for private titles with such certainty that no doubt was felt as to their rights. The limitation of the act of March 3, 1851, and its extension expired before the heirs of Cordero knew that their title to Las Cruces was not fully protected. The Cordero title has been respected by all adjacent settlers from the time of his possession to the present day. The Commissioner of the General Land-Office has directed the withdrawal of these lands from public disposal, and nothing stands in the way of justice to the heirs of Cordero, except the absence of statutory authority to recognize their rights.

Under these circumstances your committee recommend the passage of the bill with the following amendment: At the end of section 1 of the bill add "nor shall any decree of confirmation affect any valid adverse rights of any other person or persons, or give to the confirmees, or any of them, any claim upon the United States for compensation for any land such confirmees may lose by reason of pre-emption or homestead claims or adverse rights as aforesaid."

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 149.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. GROVER, from the Committee on Private Land Claims, submitted the following

REPORT:

[To accompany bill S. 753.]

The Committee on Private Land Claims, to whom was referred the bill (S. 753) to confirm a certain private land claim in the Territory of New Mexico, submit the following report:

The bill asks the confirmation by Congress of the private land claim numbered sixty-four in the report of the surveyor-general of New Mexico to the Secretary of the Interior, and known as the Mesita Juana Lopez grant, in the Territory of New Mexico.

By transcripts of title-papers contained in the letter of the Acting Secretary of the Interior to the Speaker of the House of Representatives, dated January 24, 1873, it appears that Domingo Romero, Miguel Ortiz, and Manuel Ortiz, petitioned the governor general of New Mexico, in the usual form, to grant to them in the name of His Majesty the King of Spain, a certain tract of vacant and royal domain. This petition bears no date, but as other papers in immediate connection with the chain of title shown, bear the date of 1782, it is presumed that this petition should bear that date. In the month of January of that year, acting on the foregoing mentioned petition, Juan Baptista de Anza, styling himself governor and actual commandant of this kingdom of New Mexico, and acting inspector-general of the militia thereof, made a grant to the petitioners in the following words: "I grant to them in the name of His Majesty the tract of land they apply for, for the sole purpose of pasturing stock, under the conditions they propose." And in the same instrument he commissioned Carlos Fernandez "to summon adjacent owners, define the boundaries, and to place the grantees in royal and personal possession of said tract." This document is duly attested by two witnesses. By virtue of this commission, on the 18th day of January, 1782, Carlos Fernandez citing the contiguous owners, examined their title-papers, and finding no conflict of rights, described the Mesita Juana Lopez grant by special natural bounds and measurements, and thereupon gave the special juridical possession according to the mode of proceeding under the Spanish laws.

On September 30, 1872, a petition was filed before the surveyor-general of New Mexico on behalf of the heirs of the original grantees and those holding under them, asking that this grant be confirmed to them under the laws of the United States. After having taken testimony of witnesses as to the original possession of the grantees, their continued occupancy and that of their heirs and assigns, the surveyor-general

November 29, 1872, took the following action certified of record in his office, to wit:

Surveyor-general's decision.—Domingo Romero, deceased, et al., Mesita de Juana Lopez tract.

This claim for confirmation of a grant of land is brought before me by attorneys for the heirs and legal representatives of Domingo Romero, Miguel Ortiz, and Manuel Ortiz, deceased, under the treaty of Guadalupe Hidalgo, and the eighth section of the act of Congress of July 22, 1854, establishing this office.

It appears from the record and evidence produced that in the month of January, 1782, Lieutenant-Colonel Juan Bautista de Anza, civil and military governor of New Mexico, at that time an ultramarine possession of the Crown of Spain, granted to Domingo Romero, Miguel Ortiz, and Manuel Ortiz a tract of land which they had petitioned for previously "by virtue of the power on me conferred," as he recites, and "in the name of His Majesty."

The original paper containing the petition, the concession, and the act of possession, is badly torn, especially the latter, in that part which sets forth the boundaries, but they are set forth in the petition, as follows: "From the boundary-line of Juana Lopez, which is on the west, to the boundary-line of the Ortegas on the east, and on the south the surplus land, from the boundary line of the Cañada de Juana Lopez on the north, which is bounded by the brow of the mesa at the proper Bocas," and the governor granted the lands according to those boundaries as set forth in the petition.

The grantees were placed in peaceable possession, according to the laws and usages of the times, on the 18th day of January, 1782, by Carlos Fernandez, who was commissioned to perform that duty by Governor de Anza in the act of concession, and they or their legal representatives have so remained to the present time apparently.

The grant is estimated to contain about 69,000 acres.

I have no doubt of the genuineness of original papers, nor of the honesty and good faith of the parties asking this confirmation; I therefore approve the same, and recommend that Congress confirm the said grant of lands to Domingo Romero, Miguel Ortiz, and Manuel Ortiz, and their legal representatives.

A complete transcript of the record in the case is herewith transmitted.

JAMES K. PROUDFIT,
Surveyor-General.

SURVEYOR-GENERAL'S OFFICE,
Santa Fé, New Mexico, November 29, 1872.

(See H. R. Ex. Doc. 128, Forty-second Congress, third session.)

This claim was surveyed by United States deputy surveyor Rollin J. Reeves, in October, 1876, which survey was examined and approved by the surveyor-general of New Mexico, February 28, 1877, and was ascertained to embrace forty-two thousand and twenty-two and eighty-five hundredths (42,022.85) acres instead of sixty-nine thousand (69,000) acres as originally estimated. An official copy of this survey certified by the Commissioner of the General Land-Office is in the hands of the committee. This survey was made under authority of the act of Congress approved July 31, 1876.

In view of the foregoing recital of facts, which seem to authorize the action of Congress required by this bill, the committee report the same with an amendment in the words following: At the end of line 17 of the bill, add, "Nor shall the United States be liable to make compensation for any part of said land to which there are or may be any adverse rights or claims." And as thus amended the committee recommend the passage of the bill.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 150.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 76.]

The Committee on Pensions, to whom was referred the bill (S. 76) granting a pension to Mary Ann McFarland, widow of Peter McFarland, late captain Company C, First Kansas Infantry, have had the same under consideration, and report:

Captain McFarland was seriously wounded in the head at the battle of Wilson's Creek, Missouri, August 10, 1861, and his resignation was accepted December 10, 1862. He died October 6, 1870, of diabetes mellituria.

From the preponderance of medical testimony submitted the committee are of the opinion that the disease of which the officer died is chargeable to the service, and that the claimant is entitled to the relief asked.

The committee recommend the passage of the bill.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 151.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 712.]

The Committee on Pensions, to whom was referred the bill (S. 712) granting a pension to William Loudon, report:

That William Loudon enlisted July 31, 1861, in Company C, Second Regiment Illinois Cavalry, and was discharged for disability March 3, 1863. On the 18th of July, 1863, he made application for pension, alleging disability from consumption, the result of exposures and hardships of camp life, contracted in 1863. That claim was rejected on the ground that the disease existed prior to enlistment. On the 15th of March, 1867, he again applied for a pension, alleging that while in action at Holly Springs, Miss., his horse fell with him (while in the act of jumping a ditch), seriously straining and injuring his back, and for which injury he was sent to hospital at La Grange, Tenn., and subsequently, March 3, 1863, discharged from the service. He states that soon after his discharge, and as a result of his fall, both legs became entirely paralyzed, and have remained so to this time. The certificate of disability upon which claimant was discharged says: "Discharged March 31, 1863, because of phthisis pulmonalis, obviously predisposed when he enlisted—developed since. Has been a good soldier."

Ira Bennett, a comrade in the same company, swears that Loudon was injured by the falling of his horse in action, which injury resulted in paralysis of the lower limbs. Was in good health when enlisted.

Abram Myers was with the supply-train at Holly Springs on the 20th day of December, 1862, and swears that in a raid made upon that place by the rebel general Van Dorn the company to which Loudon belonged was taken by surprise, and that in the action claimant's horse fell with him while in the act of jumping a ditch; that Loudon continued on duty until General Grant fell back to Holly Springs, when he went into hospital, and was taken to La Grange, Tenn. He further swears that Loudon subsequently lost the use of both legs, and that he had good reason to believe, and does believe, that his paralysis was the result of this injury received while in the service and line of duty. Knew Loudon in Illinois seventeen years ago, and have known him ever since. Drs. J. D. Johnston and E. Bribra, in an examination made June 18, 1863, report total disability from tuberculosis of right lung contracted in the service, and on the 11th of February, 1871, Examining Surgeon A. C. Van Duyn finds disease of lungs and paralysis of both legs.

Dr. G. W. Parkins certifies that, during the fall and winter of 1863 and 1864, he treated Loudon for an imflammatory affection, having a centralizing effect on the spine and nervous centers, the result being

complete paralysis of inferior extremities, which he believes to have resulted from injuries received while in the service.

M. C. Parkinson, on his oath, says that he resided in Loudon's family from 1857 until he enlisted, and that during that time he was free from sickness or disability of any kind, and had no symptoms of any chronic or hereditary disease. Has been acquainted with claimant since his discharge, and knows that he is now totally disabled.

Col. T. G. Pitcher, First United States Infantry, states that he was mustering and disbursing officer for the State of Illinois during the first year of the war, and organized Camp Butler, near Springfield, where he must have mustered in the Second Cavalry. He instituted and practiced for the first time in that State the rigid system of physical examination required by the Army Regulations. All the men were stripped and carefully examined. He has no recollection of this particular cases but can only say if this man escaped the rigid examination he was an exception to the rule, and it was in violation of orders if he did.

Loudon not having prosecuted his claim to a successful issue within five years from the date of filing, the Commissioner of Pensions on the 11th day of September, 1874, referred it to the Adjutant-General under the 24th section of the act of March 3, 1873, with a view to an amendment of the records, so that they would show the origin of the disease of the lungs in the service and line of duty. That officer returned the claim May 2, 1876, with the following indorsement:

The testimony, *if reliable*, in the opinion of this office establishes disability contracted in line of duty, but inasmuch as this office has no means of ascertaining the reliability of the evidence, it becomes necessary for the Commissioner to determine through his usual detective means a verification or substantiation of the testimony.

The evidence was then placed in the hands of a special agent of the Pension Office, with instructions to take further testimony in the case. Although the soldier now, and for some time past, has made his home in Kansas, the agent did not deem it necessary to go there, but confined his investigation to the State of Illinois, from whence he procured the affidavits of Dr. G. W. Parkins, Mary J. Branning, Hugh Fullerton, Samuel Whittaker, John Philbrick, and W. H. Webb (for which see report of special agent accompanying the papers in the claim).

Upon the receipt of the agent's report the case was submitted to the Adjutant-General for further consideration, who returned the papers December 21, 1876, indorsed as follows:

The evidence presented to this office in this case was certainly sufficient to change the record, but when thoroughly investigated through detective measures not at the disposition of this office, is found to be totally unreliable. The papers are returned without favorable report.

Upon this refusal of the Adjutant-General to make a record, the claim was rejected by the Pension Office, on the ground that Loudon's disability was not chargeable to the service.

The committee consider the decision of the Commissioner to have been erroneous, and recommend that the bill do pass.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 152.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 989.]

The Committee on Pensions, having had under consideration the bill (H. R. 989) granting a pension to Mrs. Eliza A. Semple, report:

That James A. Semple, captain of Company A, Fifteenth United States Infantry, died at Mobile, Ala., from the effects of an accidental wound received while on leave in April, 1867. His widow, Eliza A. Semple, asks that she be granted a pension.

The records of the Surgeon-General's Office show that Captain Semple died of a wound produced by the accidental discharge of his revolver, it falling from his hand to the floor and discharging the ball from one chamber, which, striking him in the knee, caused his death in a few months thereafter.

Captain Semple was on leave at the time attending a wedding, and it was at a hotel where the accident occurred. The Pension Office rejected the widow's claim, on the ground that the "fatal disease did not originate in the service or line of duty."

The committee concur with the Commissioner in the opinion that the claim was not well founded, and they recommend that the bill do not pass.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 153.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. INGALLS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 687.]

The Committee on Pensions, to whom was referred the bill (S. 687) granting a pension to William H. Bagley, report:

That Bagley enlisted in Company I, Eighty-eighth Regiment Pennsylvania Volunteers, on the 19th day of December, 1861, and was honorably discharged at Convalescent Camp, Virginia, February 11, 1863.

He alleges that he was taken sick at camp below Falls Church, with rheumatism, and was then sent to the hospital at Falls Church, and from there to the Filbert-street Hospital in Philadelphia; that he also contracted disease of the heart while in the service, and that he is still afflicted with these diseases and their results and cannot do any labor. He was examined on the 22d day of September, 1875, by the board of examining surgeons at Philadelphia, who certify that his disability is 14–18 total, third grade, entitling him to $14 per month, and that in their opinion the disability originated in the service and line of duty. They fined double curvature of the spine, involving the 9th, 10th, and 11th dorsal and 1st and 2d lumbar vertebræ. They state that the man is bent and feeble. The records of the Surgeon-General's Office contain no evidence of treatment at Filbert-street Hospital, the regimental records not commencing until October, 1864, but a letter from the Office of the Adjutant-General, dated October 6, 1874, addressed to Bagley's attorney, in reply to an inquiry for information respecting the soldier's bounty, states that—

> The medical records show that he was treated while in service for rheumatism, but it appears that functional disease of the heart was the cause of his discharge, and although the records show that the disability was contracted in the service, the same does not entitle him to bounty, he not having been discharged on account of wounds or injuries received in service.

Drs. Hazard and Rosseau, practicing physicians of Philadelphia, certify that they knew Bagley before his enlistment, and that he was a sound, able-bodied man; that they have attended him professionally since his discharge, and find him afflicted with rheumatism and curvature of the spine, which has caused him to become bent and distorted.

Captain Schell, who commanded Company I, swears positively that when Bagley enlisted he was a strong, stout, and healthy man, free from disease; that he suffered from rheumatism while in the service, and was subsequently discharged for disability, from which, to his personal knowledge, he is still suffering.

There is abundant evidence in this case to show that when the soldier entered the service he was a sound and active man, free from disease. His certificate of discharge and the testimony which he has filed amply prove that he left the service a diseased, crippled, and broken-down man. The claim was rejected by the Pension Office for the reason that he alleges and proves rheumatism and curvature of the spine, but was discharged for disease of the heart, the Commissioner holding that there is no necessary or probable connection between the disease which occasioned his discharge and the disability which he alleges.

The committee, after a careful review of the evidence, consider the claim satisfactorily established, and recommend the passage of the bill.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 154.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. VOORHEES, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 547.]

The Committee on Pensions, to whom was referred the bill (S. 547) granting a pension to Caroline M. Egbert, having had the same under consideration, report as follows:

Caroline M. Egbert applies for a pension as the widow of Daniel Egbert, who died October 24, 1875, on the retired-list as a medical director of the United States Navy.

The deceased was appointed an assistant surgeon United States Navy in 1829, and was commissioned June 3, 1830, to take rank from August 22, 1829.

It appears from the proper records that in August, 1830, Dr. Egbert, while on duty at Pensacola, was attacked by yellow fever, and was treated for the same in the hospital at that place.

It is claimed that from the effects of this attack he never recovered, but that his constitution was so impaired by it as to leave him less able to contend with future attacks of other diseases. It is true that he performed a long career of active service, and has left a long and honorable record of public duty, but it is alleged that he always suffered from enfeebled health, and that when he was seized with pneumonia, his last and fatal illness, the broken condition of his constitution, arising from the attack of yellow fever, though many years before, contributed directly and immediately to his death. This view of the case is fully sustained by the testimony of Dr. George R. Morehouse, of Philadelphia, who attended the deceased in his last sickness. Dr. Morehouse says:

> The early and fatal issue of a limited pneumonia in Dr. Egbert's case was due to his previous feeble health, induced by an attack of yellow fever in the West Indies and confirmed by subsequent long-continued exposure to the influences of a tropical climate. I have been Dr. Egbert's medical adviser from time to time since 1852, and know that he labored under impaired health during my knowledge of him, and I do not doubt this condition determined a fatal issue in a disease which in a good constitution would have proved tractable to treatment.

Dr. L. B. Hunter, medical director in the United States Navy, also testifies to a long intimacy with Dr. Egbert, and fully sustains the position taken by Dr. Morehouse.

It is recommended that the bill do pass.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 155.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, having considered the petition of Maria I. Streeter, report:

That Henry B. Streeter, the husband of petitioner, enlisted in Company A, Eighty-fifth Regiment Illinois Volunteer Infantry, August 18, 1862, was wounded at Atlanta, Ga., August 9, 1864; his right leg was amputated same day; was in different hospitals until his discharge at Camp Butler, Ill., November 7, 1865, and died December 3, 1875, at which time he was a pensioner at the rate of $24 per month. Claimant is his widow, and is the mother of five children, the eldest of whom was born in 1862. Claimant's application for pension was rejected at the Pension Bureau for the reason that satisfactory evidence was not furnished that the disease of which the deceased soldier died was contracted while in the service in the line of his duty.

Your committee are of the opinion that the decision of the Commissioner of Pensions is correct, and ask to be discharged from the further consideration of the petition.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 156.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 930.]

Wills R. Marsh entered the military service June 22, 1861, as surgeon Second Iowa Infantry Volunteers, and was mustered out of service July 12, 1865. July 25, 1870, applied for pension for disability incurred in the service, and was a pensioner until the date of his death, October, 1873.

The claimant, or widow of deceased officer, applied for pension September, 1874, and her application was rejected March 9, 1876, on the ground that the death of the officer was not caused by wounds or disease incurred in the service. Pension was allowed the deceased officer because of chronic diarrhea and dysentery, resulting in *prolapsus recti*, ulceration of the bowels, and general and permanent prostration of the nervous system. The immediate cause of his death was pneumonia, or congestion of the lungs.

The complaint alleges nevertheless the predisposing and procuring cause of death was the disease acquired in the military service, and on this ground rests her plea for relief. The reports of the examining surgeons show such permanent disabling effects of the original disease as to create a strong presumption in favor of the correctness of the allegations of claimant as to the causes of the death of the officer. The several affidavits of Prof. J. Adams Allen, of Chicago, well acquainted with the habits and condition of the deceased officer, and long his family physician, allege that the cause of death was the original diseases incurred in the military service, and this conclusion is sustained by the several affidavits of Dr. Dimock, the physician who attended the officer in his last illness.

The evidence seems to establish a meritorious case, and favorable action by bill of relief as prayed for is recommended.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 157.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 931.]

The Committee on Pensions, to whom was referred the petition of James Shields, late brigadier-general United States Army, praying an increase of pension, have had the same under consideration and report:

It appears from the record that James Shields was appointed a brigadier-general of volunteers August 19, 1861, and that he resigned March 28, 1863. General Shields was seriously wounded in the battle of Kernstown, March 22, 1862, and was pensioned, under the general law, at $31.25 per month. In view of the extreme and permanent injury resulting to him from such wounds he, in July, 1877, applied for an increase of pension at the rate of $50 per month instead of $31.25. General Shields's application, as appears by the letter of the Commissioner of Pensions, was refused because the evidence, as is alleged, "fails to show that his disabilities have resulted in permanent, total helplessness requiring the regular personal aid and attendance of another person."

The requirements of the Pension Office as to the character of evidence to establish a sufficient basis for a claim of increased pension seem to have been fully and fairly met by this claimant. The affidavit of the physician definitely sets forth the great helplessness produced by the wounds of the 22d of March, 1862, and asserts the permanent character of the disabilities of the claimant in connection therewith. The statement of the physician is specifically and fully sustained by the affidavits of Mary A. Shields, the wife of the claimant, and Florence Attwood, for some time the attendant of the claimant.

The substance of the law in all its requirements as to evidence seems to have been sustained, and the committee are of the opinion that the petitioner is entitled to the increase asked, and recommend the passage of the accompanying bill.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 158.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Mrs. Sarah B. F. Mayo for arrears of pension, have examined the same, and report:

That it has been thus far the settled policy of Congress to refuse to pay arrears of pensions; that a bill is now pending granting such arrears in all cases, and that the committee think it advisable to await such action as Congress may deem it proper to take on the general bill for that purpose.

The committee, therefore, ask to be discharged from the further consideration of the petition.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 159.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 333.]

The Committee on Military Affairs, to whom was referred the bill (S. 333) "for the relief of Thomas J. Choate, Erastus Foster, Milton Ladd, Clarence E. Haney, William A. Hill, Kneeland F. Huckaby, and William Blackburn, late privates in Company F, Third Regiment Arkansas Cavalry Volunteers," have had the same under consideration and submit the following report:

This bill proposes to relieve the persons named by removing the charge of desertion from their military records. The company of which they were members was recruited in Yell County, Arkansas, in the fall of 1863. In September, 1864, while their command was stationed at the post of Lewisburg, information reached the men that the locality of their homes, some forty miles distant, was being overrun by detachments of rebel soldiers and guerrillas, and that their families were being cruelly plundered and outraged. In their anxiety to do something for the relief of their friends they appealed to the commanding officer of the regiment to send a scouting party for that purpose, but a sufficient force could not be spared from the post. They then appealed to the commanding officer of the company who, with the other officers, resided in the neighborhood spoken of, for leave to be absent for a few days for the purpose of extending relief to their suffering families, or removing them to a place of safety. Verbal permission was granted to this effect, and the men were authorized to be absent a week or thereabouts.

They failed to report for duty at the time specified. It is shown that after they had left for their homes the surrounding country became thoroughly infested with rebel parties. The troops at the post of Lewisburg were compelled to abandon that place and fall back upon Little Rock. The men who had gone to the relief of their families had frequent conflicts with the enemy, and one of their number (Blackburn) was killed, as the evidence shows, prior to the expiration of his leave. From the testimony given by the survivors, corroborated by the officers of the company so far as the facts were within their knowledge, it appears that it would not have been practicable for the men to rejoin their commands at the time specified, and that had they undertaken to do so their capture by the enemy would have been almost inevitable. The thoroughfares and the country generally were so thoroughly under the control of the rebels at the time that the men were compelled to seek shelter and safety in the secluded mountains of that region, venturing

out occasionally, when opportunity served, to minister to their own necessities or the wants of their families. So completely were they cut off from communication with the Union forces, it appears that for a long period they did not even know where the command was.

These men voluntarily returned to their command in January or February, 1865. They gave satisfactory explanations of their prolonged absence, and were promptly assigned to duty. They received honorable discharges when their command was mustered out of the service. They state that they were not apprised that the charge of desertion appeared against them upon the record until after the passage of the additional-bounty bill in 1866, when they made ineffectual efforts to secure a share of its benefits. Much delay ensued by reason of the difficulty in securing testimony, but at length application was made to the War Department to relieve them from their disability, which was declined upon the ground that so long a time had elapsed it would be unjust to the government to reopen cases which had been determined at the time when all the facts and circumstances were fresh in the knowledge of the proper authorities. It appears, however, that two men of the same company, Burk Johnson and Hugh M. Barnett, were in 1875, by the War Department, relieved from the charge of desertion incurred under the same circumstances, and upon testimony substantially the same as has been presented to your committee. The fact that these men had the verbal permission of their company commander to absent themselves, the condition of that section of country at that time, and their voluntary return to duty, seem to leave no reasonable doubt that they were without the slightest intention of deserting the service. That they had the permission spoken of, is conclusively shown by the testimony of the company officers, added to their own. It appears to be clearly established also that these men had been and subsequently were faithful soldiers, and thoroughly loyal to the Union cause.

The committee are, therefore, clearly of the opinion that the persons named are entitled to the relief sought, and they recommend the passage the bill.

C

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 160.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 594.]

The Committee on Military Affairs, to whom was referred the bill (S. 594) for the relief of William W. Spiers, late assistant surgeon United States Army, have had the same under consideration, and submit the following report:

It appears from the records of the War Department that on the 20th of September, 1863, Dr. Spiers was a private and acting hospital steward of Company H, Twenty-second Regiment Indiana Volunteers, on the battle-field of Chickamauga; that he was ordered to remain with the wounded, and in consequence was captured by the enemy and held until April, 1864, when he escaped, and entered the Union lines on the 10th of that month. Not being aware that he was in the hands of the enemy, the Secretary of War, September 21st, 1863, appointed him an assistant surgeon of the Third United States Colored Troops, but he did not receive the notice of his appointment until after his return. In the mean time, the services of an assistant surgeon being required, another person was appointed to the position, and there was no vacancy for Spiers to fill upon his return. He was, however, appointed assistant surgeon of the One hundred and second Regiment United States Colored Troops, was mustered, and joined for duty June 6, 1864.

By the second section of the joint resolution of July 11, 1870, it was provided "that persons held as prisoners of war by the enemy, or who may have been in hospital by reason of wounds or disability at the time of the issuing of their commissions, shall be entitled to the same pay, emoluments, and benefits, under this resolution, as if actually performing the duties of the grade to which they were commissioned."

The third section of the same act provides "that this resolution shall not be construed to apply to cases in which, under the laws and army regulations existing at the time, there could have been no lawful muster into service, even after the actual receipt of the commission."

The Adjutant-General of the Army, in declining to afford relief under the said joint resolution of July 11, 1870, so construes the section last quoted as to entirely neutralize the effect of the statute, and to make it inoperative for the relief of anybody. The act was intended to reach that highly meritorious class of soldiers who, having been captured by the enemy while in the discharge of their duty, or confined in hospital on account of wounds received in service, were unable to present them-

selves for muster and duty. The Adjutant-General cites General Orders No. 48, series of 1863, which provides that "an officer must present his commission or appointment" under which he desires to be mustered. It could not have been the intention of Congress to make its legislation on this subject dependent upon that restriction, because in that case the legislation would have been entirely ineffective.

The same order also contains a provision that "no officer shall be mustered in to date back beyond the time that he has actually been performing the duties of the grade into which he desires to be mustered." We think it perfectly clear that Congress could not have intended that this order should apply to and control such cases as the one before us, otherwise its enactment would have been utterly without purpose, and the very class of persons whom it was designed to relieve could not possibly have been benefited by it.

The committee hold that the real intention of the third section of the act referred to was to prevent the muster-in of officers to cover periods during which they could not have been mustered, if present, owing to the reduced strength of their commands, or some other legal disability. In this case there can be no question of that kind. The appointment of Dr. Spiers directly by the Secretary of War would imply that within the knowledge of the department the vacancy existed and could be legally filled. More than that, it was noted upon the letter of appointment signed by the Secretary of War that "acceptance of this appointment will be your muster into service." This we think is entirely conclusive as against any doubts that might otherwise have arisen as to the right of Dr. Spiers to be mustered at the time of his appointment.

The bill simply allows Dr. Spiers the difference between the pay that he did receive and the pay of an assistant-surgeon during the seven months of his imprisonment, and the committee recommend its passage.

C

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 161.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 312.]

The Committee on Public Lands, to whom was referred the bill (S. 312) for the relief of Robert Coles, have had the same under consideration, and submit the following report:

Upon examination, the facts appear to be as set out in the preamble of the bill. Mr. Coles is shown to be the owner of the indemnity-certificates 92 and 93, by a contract between him and the supervisors of Lucas County, in the State of Iowa, under the laws of that State. The list of swamp selections, upon which the certificates were issued, was duly approved by the surveyor-general of Iowa, in March, 1859, and proof for indemnity filed in the General Land Office June 20, 1860. It is also shown that the surveyor-general failed to certify his approval of such selections to the Commissioner of the General Land Office at the time of such approval, as required by the Secretary of the Interior. It further appears from the record, as set forth in the preamble, that there were large quantities of public lands in the State upon which such indemnity-certificates could have been located had the list of selections been certified at the proper time, and that a full and valuable consideration was paid to Lucas County by Coles for said certificates. It is also shown by the record that, owing to the delay and neglect of the surveyor-general, there were, at the date of the issue of said certificates, no vacant public lands in Iowa upon which they could be located.

The committee believe, therefore, that Mr. Coles has an equitable claim to the relief asked for, which is that warrants issue in lieu of such certificates, locatable on any of the public lands not mineral; and they recommend the passage of the bill, with an amendment providing that said warrants shall only be received from actual settlers in payment of pre-emption claims or in commutation of homestead entries.

The committee are constrained to add, however, that this claim is not a singular one, but that others of the same character are in existence, covering many thousands of acres.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 162.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Ordered to be printed.

Mr. CAMERON, of Pennsylvania, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill H. R. 847.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 847) for the relief of Susan Robb, submit the following report:

This claim is for $135, "three months' extra pay proper," under the act of March 3, 1865, which provides that such allowance shall be made to all soldiers who, being in the service at the time of the passage of the law, should faithfully serve until the conclusion of the war. The son of Susan Robb was in the service and died in service on the 9th day of April, 1865, the very day the war was practically ended. The Treasury Department decided that the heirs of the deceased were not entitled to recover, because he had not served the whole day of the 9th of April; in other words, that he died a few hours too soon to have his devotion recognized.

The committee reject this hard and narrow construction, and ask that the bill be passed.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 163.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Railroads, submitted the following

REPORT:

[To accompany bill S. 306.]

The Committee on Railroads, to whom was referred Senate bill No. 306, entitled "A bill amendatory of the act entitled 'An act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville, in the State of Oregon,'" having had the same under consideration, submit an amendment in the nature of a substitute, and recommend its passage.

On the 4th May, 1870, Congress passed an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville, in the State of Oregon." The road thus aided was to be constructed from Portland to Astoria, in the State of Oregon, and from a suitable point of junction near Forest Grove—a point some twenty miles west of Portland—to the Yam Hill River, near McMinnville, in the State of Oregon. The act made the usual grants of right of way, necessary lands for depots, stations, side tracks, and other needful uses in operating the road, and also alternate sections of the public lands not mineral, excepting coal or iron lands, designated by odd numbers nearest to said road, to the amount of ten alternate sections per mile on each side thereof, not otherwise disposed of or reserved, or held by valid pre-emption or homestead right, at the time of the passage of the act.

The act was in the usual form of grants of land in aid of railroads; providing for the withdrawal of the lands from pre-emption and sale, and for the patenting of the same to the railroad company as sections of the road were completed and accepted by the government.

Under this act the Oregon Central Railroad Company has completed its road and telegraph line from Portland westward to near Forest Grove, the point of junction designated in the act, and the same was accepted February 16, 1872; and also from Forest Grove south to the Yam Hill River, near McMinnville, the southern terminus as fixed in the act, which is 27½ miles, and the same was accepted June 23, 1876.

It will be perceived, therefore, that the portion of the main line from Portland to near Forest Grove, and the whole of the branch from the point of junction to the Yam Hill River, near McMinnville, amounting in all to 47½ miles, has been completed in accordance with the terms of the act and accepted by the government, and is now being operated and has been for several years. That portion of the main line of the road, however, from the suitable point of junction, at or near Forest Grove,

to Astoria, the northern terminating point, and the distance of which is about 97 miles, has not been completed, nor any part thereof.

No lands have been patented to said company as yet. There is, however, a list of selections now pending, embracing 20,759$\frac{44}{100}$ acres. The purpose of this bill is to enable the company, or, in case of its failure, some other company organized as designated in the bill reported, to construct the unfinished portion of the main line, and in accordance with the terms of the original act, from the point of junction at or near Forest Grove to Astoria.

The bill provides an extension of three years within which to complete the whole road. It also provides, as a condition, that the Oregon Central Railroad Company shall, within nine months from the date of the passage of this act, commence the construction of the road at the point of junction aforesaid, and construct and equip within one year thereafter not less than fifty miles thereof, and shall complete and equip the whole line to Astoria within three years from the date of the approval of the act.

The bill further provides that if the said Oregon Central Railroad Company shall not commence the construction of said incompleted road at the junction aforesaid within nine months from the date of the approval of this act, or shall not prosecute the construction of the same as above stated, then any corporation duly incorporated and organized under the laws of the State of Oregon, and which shall, within nine months from the approval of the bill reported, and prior to any other company, file with the Secretary of the Interior a notice of its intention to construct such road and telegraph line in the event of a failure on the part of said Oregon Central Railroad Company, may, at any time within three months after such failure upon the part of said Oregon Central Railroad Company either to commence or prosecute as aforesaid, proceed in like manner, and upon like conditions, and with like restrictions and benefits, to the commencement and construction of such road, either at the point of junction aforesaid, or, at its discretion, at the city of Astoria, Oregon; and such company shall be entitled to the aid granted for its construction by completing at least twenty-five miles of such road within one year after such commencement, and the whole thereof within three years from the date of the approval of this act. It is further provided that, as often as there shall be such failure, any other company next in order from the date of this notice with the Secretary of the Interior shall have the right, at any time within three months from the date of such failure, to proceed with such construction, upon like conditions and with like benefits.

Your committee, however, have adopted a different system in reference to the disposition of the lands included in the grant from that prescribed in the original act. The bill provides, in brief, that all the lands designated by odd sections included within the limits of the grant, shall be thrown open to settlement by pre-emption at the rate of $2.50 per acre, and in quantities not exceeding one hundred and sixty acres to any one person; that such sales shall be made by the United States according to existing rules and regulations governing the sales of the public lands; that the proceeds of such sales shall be paid into the Treasury of the United States, and be placed to the credit of the company constructing the road, and invested by the Secretary for their benefit from time to time in bonds of the United States, which bonds the Secretary shall have the power to dispose of when such proceeds are needed as the road may be constructed and accepted by the Government; that on the construction of any one or more sections of twenty miles

and the acceptance of the same by the Department of the Interior, all proceeds arising from the sales of lands adjacent to such completed and accepted section or sections, together with the accrued interest thereon, shall be paid directly by the Secretary of the Treasury, without further legislation or appropriation, to the company constructing the same, its trustees or assigns. And all lands designated by odd sections and adjacent to such completed and accepted section or sections, and to which pre-emption rights shall not have attached, shall then be patented to the company constructing the same; with a proviso, however, that all such lands shall be sold to actual settlers by such company in quantities not exceeding one hundred and sixty acres, and at a price not exceeding $2.50 per acre.

The bill contains specific provisions for the protection of homestead and pre-emption claimants who settled upon lands within the grant prior to the reception of notice at the local land offices of the withdrawal of such lands. The bill also provides that the even sections shall be open to settlement under the pre-emption laws at $2.50 per acre; also, shall be open to homestead to the extent of one hundred and sixty acres to each person. The bill also provides that where persons under the existing law have been limited in their homesteads to eighty acres, they shall be permitted to enlarge their homesteads to one hundred and sixty acres, the same to be done under such regulations as the Secretary of the Interior may prescribe. Coal and iron lands are not limited as to price, but are sold under existing laws regulating the sale of such lands.

Your committee believe that this proposed system of throwing open the lands included in this grant to settlement will do away with many of the objections now urged against the extension of time to railroad companies where the grants have expired or are about to expire; while at the same time an equal if not a better credit will be afforded the company constructing the road. The rapid growth in wealth, commerce, and population of the two cities, Astoria, at the mouth of the second river on the continent, and Portland, at the head of tidewater of the same river, and the second commercial city on the Pacific coast, together with the rapidly growing commerce of the great Northwest, renders the construction of this road, although short, a truly national one.

Your committee therefore earnestly recommend the passage of the bill.

The bill as amended will read as follows:

A BILL amendatory of the act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Portland to Astoria and McMinnville in the State of Oregon."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That three years' additional time from the passage of this act is hereby granted to the Oregon Central Railroad Company for the completion of the construction of its railroad and telegraph line from Portland to Astoria, Oregon, under its charter, and the act of Congress, of which this is amendatory, relating thereto, except as herein otherwise provided.

SEC. 2. That this extension is granted upon the express condition and understanding that where pre-emption and homestead claims were initiated, or private entries and locations were allowed, upon lands em-

braced in the grant to said company, prior to the receipt of the orders of withdrawal at the respective district land-offices, the lands embraced in such entry shall not be held as within the grant to said company, and shall be patented to the parties lawfully entering the same, and under the provisions of this section, and in case of abandonment by them, shall be open to pre-emption and homestead entry only of actual settlers.

SEC. 3. That entries remaining unadjusted and suspended in the General Land Office on account of an increase of price of the even sections within the limits of the grant, where the same were made, or based upon settlement made prior to the receipt of the orders of withdrawal aforesaid at the respective district land-offices, shall be relieved from such suspension, and carried into patent; but nothing in this act shall be construed to affect existing adjustments, nor to authorize the refunding of any moneys received for such lands under existing laws.

SEC. 4. That the lands upon the whole of the present non-completed line of road from Portland to Astoria, granted in aid of its construction, with the exception of its right of way, and lands appurtenant thereto, on either side thereof, necessary to be used in the construction and in the operation of said road or line, and that required for depots, freight-houses, side-tracks, water-stations, wharves, and other purposes essential to the operation of the road or line, and excepting lands already earned by said Oregon Central Railroad Company, shall be disposed of by the United States to actual settlers only by pre-emption, in quantities not exceeding one quarter section, or one hundred and sixty acres, to one person, at the price of two dollars and fifty cents per acre; payment to be made by such settler to the United States as provided by law: Provided, That iron and coal lands granted to the said Oregon Central Railroad Company shall not be subject to pre emption and sale under the provisions of this act, but shall be disposed of by the Secretary of the Interior under the general laws of the United States applicable to such lands, and the net proceeds thereof shall be paid into the Treasury of the United States and applied to the benefit of said company, as hereinafter mentioned.

SEC. 5. That the proceeds of the sales of the land before mentioned shall be set apart by the Secretary of the Treasury to the credit of the said corporation, and shall be paid over by him to such corporation, its trustees or assigns, in the event the road is constructed by said Oregon Central Railroad Company, or if constructed by any other company under the provisions of this act, then to such other company, its trustees, or assigns, without further legislation or appropriation, as hereinafter provided, and not otherwise.

SEC. 6. That on the completion and acceptance of any one or more sections of said road of twenty miles each, as provided under existing laws, it shall be the duty of the Secretary of the Interior, as soon and as often as the surveys and plats of any one or more townships, or fraction of a township, within the grant upon such accepted section or sections of road shall be approved, to cause to be made in triplicate a complete abstract, showing, first, lands unsold and to which no pre-emption rights have attached, and so earned by the company; second, lands sold and the amount of proceeds thereof paid into the Treasury; and, third, lands to which pre-emptions shall have attached prior to the completion and acceptance of such section or sections as aforesaid, and for which payment has not then been made. The first of said abstracts shall be retained in the office of the Secretary of the Interior, upon which patents shall issue to the corporation for the lands therein stated to have been *earned; the* second shall be filed with the Secretary of the Treasury,

who shall thereupon pay to the corporation the sum or sums of money in such abstract stated as aforesaid, together with all interest accrued thereon, without further legislation or appropriation; and the third shall be delivered to said company.

SEC. 7. From the date of the completion and acceptance of any section or sections of said road, and of such public notice thereof as shall be prescribed by the Secretary of the Interior, the lands within said grant, and adjacent to such completed section or sections, and designated by odd numbers, and to which pre-emption rights shall not have attached, shall no longer be open to settlement and pre-emption as aforesaid, but shall be patented as aforesaid to the said corporation; and all pre-emption claims shall be paid for within the time now fixed by law for the payment of pre-emption claims, otherwise they shall be deemed forfeited to such railroad company, and shall be patented to such company. But Congress may, for any good reason, extend the time for the payment of pre-emption claims.

SEC. 8. That rights under pre-emption claims attaching to lands as aforesaid, within completed and accepted sections, shall be proceeded in and determined under the general laws and regulations respecting such claims until paid for or forfeited, and patents for the same shall be issued direct to the settlers on compliance with the laws in relation thereto. And the proceeds of all sales of pre-emptions which have not been paid to the United States prior to the completion and acceptance of any one or more sections, as aforesaid, shall be paid into the Treasury of the United States, and by the Secretary of the Treasury paid to said railroad company, its trustees or assigns. *Provided*, That it shall be the duty of the Secretary of the Treasury, from time to time, to invest said proceeds, for the benefit of the company constructing such road, in United States securities, and the same dispose of from time to time, as the road is constructed. And it shall be the duty of the Secretary of the Interior to file with the Secretary of the Treasury quarterly statements of the sales of all lands included in this grant, and designated by odd numbers, giving location and description of such lands, and the amount of the proceeds arising from such sales. *Provided further*, That all lands that may be patented to the company constructing said railroad under the provisions of this act (excepting iron and coal lands) shall be sold by such company in quantities not exceeding one hundred and sixty acres, and at a price not exceeding two dollars and fifty cents per acre.

SEC. 9. That the extensions, franchises, and privileges granted by this act to the said Oregon Central Railroad Company are on the express condition that such company shall, within nine months from the approval of this act, commence the construction of the uncompleted portion of said road and telegraph line at the proper point of junction with the present road running to McMinnville, at or near Forest Grove, and construct and equip within one year thereafter not less than fifty miles thereof, and shall complete and equip the whole thereof to Astoria, Oregon, within three years from the date of the approval of this act.

SEC. 10. That if the said Oregon Central Railroad Company shall not commence the construction of said incompleted road at the junction aforesaid within nine months from the date of the approval of this act as aforesaid, and prosecute the construction of the same as provided in the preceding section, then any corporation duly incorporated and organized under the laws of the State of Oregon, and which shall, within nine months from the approval of this act, and prior to any other company, file with the Secretary of the Interior a notice of its intention to

construct such road and telegraph line in the event of a failure on the part of said Oregon Central Railroad Company, may, at any time within three months after such failure upon the part of the said Oregon Central Railroad Company either to commence or prosecute as aforesaid, proceed, in like manner and upon like conditions, to the commencement and construction of such road, either at the point of junction aforesaid, at or near Forest Grove, or at the city of Astoria, Oregon; and such company shall be entitled to the aid granted for its construction by completing at least twenty-five miles of such road within one year after such commencement, and the whole thereof within three years from the date of the approval of this act; and as often as there shall be such failure, any other company next in order in the date of its notice with the Secretary of the Interior shall have the right, at any time within three months from the date of such failure, to proceed with such construction upon like conditions and with like benefits.

SEC. 11. That the sections designated by even numbers within the limits of the grant upon the line of the said Oregon Central Railroad be, and the same are hereby declared to be, from the date of the approval of this act, open to settlement and pre-emption, at the price of two dollars and fifty cents per acre, and to homesteads, in quantities not exceeding one quarter-section, or one hundred and sixty acres, to be taken in conformity to the existing pre-emption and homestead laws: *Provided further*, That all persons who, under the restrictions of the existing laws granting lands to aid in the construction of said road, have taken homesteads of not exceeding eighty acres, shall have the privilege of increasing the amount of their said homesteads, so that the aggregate shall not exceed one hundred and sixty acres; this to be done under such regulations as may be prescribed by the Secretary of the Interior.

SEC. 12. That the said Oregon Central Railroad Company, or any other company authorized under this act to construct said railroad, is hereby authorized to issue its bonds, from time to time, not exceeding twenty-five thousand dollars per mile, to aid in the construction and equipment of its said road, and to secure the same by mortgage on the whole or any part of its railroad and property, and rights of property of all kinds and descriptions, with the rights, privileges, and functions thereto appertaining, and as proof and notice of the legal execution and effectual delivery thereof, such mortgage shall be filed and recorded in the Department of the Interior.

SEC. 13. That the said Oregon Central Railroad Company shall file with the Secretary of the Interior, within six months from the date hereof, its assent to the provisions of this act, or be forever debarred from taking or receiving any benefit from or under the same.

SEC. 14. That Congress reserves the right to alter, amend, or repeal this act at any time, and the act of which this is amendatory, having due regard for the rights of the company, and to provide by law against unjust discriminations and excessive charges on the part of said company.

SEC. 15. That all acts and parts of acts inconsistent with this act are hereby repealed.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 164.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 436.]

The Committee on Pensions, to whom was referred the bill (H. R. 436) granting a pension to Adam Stinson, late a private in Company I, Sixteenth Regiment United States Infantry, find that the said soldier was regularly enlisted and served during the Mexican war, was in hospital suffering with an attack of low fever, during the progress of which an ulcer of the leg was developed, the testimony of the regimental surgeon, Dr. Wm. Truett, establishing this fact, and also that the ulcer remained unhealed at the time of his discharge from service. Medical testimony establishes the fact that this ulcer has been treated from time to time ever since the date of his discharge, and still continues, causing disability which incapacitates him from making a living by manual labor. They therefore recommend the passage of the bill.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 165.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Ordered to be

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 158.]

The Committee on Pensions, to whom was referred the bill (S. 158) granting a pension to Joseph Roleau, find, on examination, that no application has been made for a pension, to the Pension Bureau, and, in accordance with the practice in similar cases, they ask to be discharged from the further consideration of the bill.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 166.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 1256.]

The Committee on Pensions have examined House bill 1256, and the petition of Rebecca B. Remick, and the accompanying papers referred to them, and find that the petitioner is the daughter of Samuel Remick, a soldier of the Revolutionary War, who served faithfully and gallantly and was wounded in battle; that the soldier was granted a pension for his services, which was continued to his widow after his death as long as she lived; that the petitioner, his daughter, is aged, poor, and infirm, and asks that she may be allowed a pension on account of the services of her father. The committee, while sympathizing deeply with the petitioner, can find no warrant of law which will justify them in granting a pension in this case, more than in that of any other daughter of a soldier, and therefore ask that the petition be indefinitely postponed.

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45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 167.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Ordered to be printed.

Mr. MATTHEWS, from the Committee on Railroads, submitted the following

REPORT:

[To accompany bills S. 404, S. 440, and S. 942.]

The Committee on Railroads, to whom were referred the Senate bills Nos. 404 and 440, after consideration thereof, beg leave to report back the same with a substitute therefor, and recommend the passage of the latter.

The early explorations and surveys authorized by Congress, and conducted by the officers of the United States Government, looking to a rail connection with the Pacific coast, developed the practicability of *four* routes for the construction of roads connecting the navigable waters of the Mississippi with our Pacific coast. The most northern lay near the 47th and 49th parallels; the next near the 41st and 42d; the next near the 35th; and the other near the 32d parallel of latitude.

The reports of these surveys made by the United States Engineer Corps demonstrated most clearly that the last-named line was much shorter, and could be constructed over lower elevations, with easier grades, and at far less cost than either of the other lines; and looking to the expression of public sentiment in Congress and elsewhere, there is little room for doubt that but for the intervention of the late civil war that line would have been the first constructed under the direction and by the aid of the government.

When, in the judgment of Congress, the emergency arose for the immediate construction of a railroad to afford rapid and easy access to the Pacific coast, a considerable part of the territory necessary to be traversed on the lower line was occupied by the Confederate army; and the same was true of the line near the 35th parallel. Measurably for this reason the line near the 41st and 42d parallels was selected, and under liberal grants from the government, both in bonds and lands, was rapidly constructed.

The debates in Congress, and the discussions of this question before the country, developed at an early period the existence of a general conviction that *three*, if not *four*, lines should be constructed, to give equal facilities for access to the Pacific coast from all parts of the country. As early as 1864, and within two years after the initial step had been taken to build the first line, Congress authorized the construction of the extreme northern line, and endowed it with a land-grant equal to its estimated cost; and seven years later incorporated the Texas and Pacific Railway Company, authorizing it to build a railroad on or near

the 32d parallel, and declaring, in its charter, that it was a postal and military route. The land-grant to this line is but little more than one-third in quantity, and of less value per acre, than that made to the Northern Pacific. It is most evident that the early construction of this line is demanded by that portion of the country containing nearly a third of the population of the United States, which, because of its geographical position, derives but little benefit from the line already constructed; and if it is built independent of the existing line, and at the greatly reduced cost which the committee are warranted in stating it could be, it would meet the universal demand of the country for cheap rates of transportation, not only in its own immediate business, but, being competitive with the line now in operation, it would reduce the rates of transportation on that also.

The prosperous condition of the country at the inauguration of this enterprise justified the sanguine hopes of its projectors, as well as of the government, that the line could be constructed with private capital and with the land-grant without further aid from the government. The unexpected financial crisis of 1873, followed, as it has been, by an unprecedented state of bankruptcy, destruction of credit, and the impairing of confidence in all commercial and financial circles, has blasted these well-grounded hopes; notwithstanding which, private capital to the extent of over twenty millions of dollars has been invested in the construction of over four hundred and forty miles of this road. The necessity for the construction of the line, looking to the demands of trade and commerce, and the needs of the government in protecting its extended and exposed border, is not seriously controverted.

The bill which meets the approbation of, and is reported by, a majority of the committee, presents the following as its leading features:

BONDS TO BE ISSUED.

The company is authorized to execute and deposit with the Secretary of the Treasury its own bonds, at the rate of $20,000 per mile, for the construction and equipment of the line between Fort Worth and San Diego, except for the difficult and mountainous regions, not to exceed 250 miles, where it is authorized to execute its bonds at the rate of $35,000 per mile, and not to exceed, for construction and equipment purposes, $31,750,000. They are to run fifty years, and bear interest at the rate of five per cent. per annum, all payable in coin.

The government is authorized and directed to guarantee the payment of the interest on these bonds until their maturity, but they are not to be delivered to nor used by the company, only as sections of ten miles of road are completed and found to conform to the government standard, and then only in amounts equal to the actual cash cost of construction and equipment. An additional issue of bonds, at the rate of five thousand dollars ($5,000) per mile, and of the same character and description, is to remain in the Treasury, as one of the securities of the government against the payment of interest.

THE GOVERNMENT SECURITY.

That the government may be made perfectly secure in its guarantee of interest, and a sinking fund be created for the payment of the bonds at maturity, the company gives a first lien upon its franchises, rolling-stock, buildings, and all other property. In addition to this, the government withholds from the company all earnings for government

business, including mail and telegraphic service. All the net earnings of the road, as far as necessary to provide for the interest and sinking fund, are to be paid into the Treasury of the United States.

The land-grant conferred by the charter, and estimated at the land department to be about 18,000,000 acres, is to be reconveyed to the government, which is authorized to open the reservation made in pursuance of the original act, and all the lands within it to be subject to sale and settlement, and the government is authorized to sell the lands within the reservation at the usual rates affixed to public lands in railroad reservations, and credit the company with one-half of the proceeds on its interest account.

The government has also an additional security in the deposit in the Treasury of bonds to the amount of $5,000 per mile of the whole line from Fort Worth to San Diego, which cannot be used for construction or equipment purposes, and which the government is authorized to sell at any time to meet any default or deficiency in the interest account.

In the opinion of the committee, the securities provided are ample to protect the government against loss, and especially as it is known that the net earnings upon the Union and Central Pacific line are from $5,000 to $6,000 per mile per annum. The present business of the Texas and Pacific Railway line, unfinished as it is, and having no through business, gives additional assurance of its capacity, when completed according to the original conception, to pay the interest upon the bonds without embarrassment to its finances.

EXTENSION TO THE MISSISSIPPI.

The bill makes it obligatory upon the company, unaided by the government, to extend its main trunk line eastward to the Mississippi River, and establish its terminus upon the eastern bank thereof, upon such route, not farther north than Memphis, Tennessee, as may be designated by five commissioners, to be appointed by the President of the United States, three of whom shall be the three engineer officers of the United States highest in rank, and requires the company, under penalty of forfeiture of the benefits of the bill, to construct not less than fifty miles per annum on this extension.

It will be the duty of this commission, under these provisions, to consider the claims of the various localities upon the Mississippi, and locate the eastern terminus in reference to the commerce of the whole country.

RATES TO BE CHARGED.

The right to fix the rates for all transportation upon the line is reserved to Congress, so that, in all time to come, the government can prevent any extortion upon the traffic of the line, and put it out of the power of the company, even if so disposed, to burden the commerce of the country by charges in excess of a fair and reasonable profit upon the capital invested.

In the opinion of the committee, this meets a growing demand, pervading the sentiment of the entire country; and when rates are fixed by Congress, all connecting lines are entitled to the benefits of it, if willing to reciprocate upon the same basis.

DISCRIMINATIONS.

The bill provides that all lines now or hereafter connecting with this

road shall be put upon an equality as to all consigned through business; that no unjust discriminations shall be made by or against either, and that all connecting lines shall have the right to establish agencies at the termini or at any intermediate points to solicit business, and the company is compelled to transport and deliver all freight and passengers as consigned. Suitable remedies in the courts of the United States are provided to prevent any violations of these restrictions.

DEALINGS WITH COMPETING LINES.

The bill absolutely interdicts any consolidation or combination with any competing transcontinental line in the movement of freights or transportation of passengers, under penalty of forfeiture of the franchises and charter of the company.

The government reserves the right, through its commissioners, to inspect the books and papers of this as well as of connecting companies, panies, for the purpose of discovering any violations of these provisions.

The committee have not deemed it important to discuss, or even consider, the question of the constitutional power of Congress to extend aid, as defined in this bill, to an enterprise of this character. It is too late in the day to deny the authority of Congress, under the Constitution, over this subject.

The committee, however, are aware of the prevailing prejudice against extending government aid, in the nature of subsidies, to enterprises which partake in any degree of a private character; and while they are quite willing to agree that the common objections to the exercise of this authority and the expenditure of the public money in that way, in ordinary cases, is well founded, they, nevertheless, are clearly of the opinion that the present case constitutes a just exception out of that rule. The enterprise itself is one demanded by the highest and most permanent public interest, and is not within the reach of unaided private capital. The necessity of maintaining the public control over the transcontinental traffic, engendered by the peculiarities of the legislation under which the lines already in operation were constructed, would, of itself, if there were no other consideration, justify the construction of this line as a competitor, in order to protect the public interest against a monopoly which cannot otherwise be reached by law; and the supposed subsidy being only a loan of credit, fully protected, as the committee think, by the most abundant and certain security, does not constitute any incumbrance upon the public treasury.

In framing the details of the measure now proposed, the committee, warned by the past experience of the country, have endeavored to avoid the mistakes originally committed in the legislation authorizing the construction of the transcontinental roads now in operation. They have left the hands of the government entirely free and untrammeled to control the operation and management of the line, as from time to time the exigencies of the public interest may require. They have endeavored, by precise and accurate provisions, to secure in the most explicit manner the rights and interests of the government. They have endeavored, and, as they think, successfully, to prevent the possibility, under cover of legislation justified only by a great public interest, of merely promoting a private job. They have sought to secure perfectly that every dollar of money raised upon the credit of the government shall be invested honestly and economically in the work for which alone it is destined; so that no possible profit can ever, even hereafter, accrue to

any private interest, until after the government has been fully repaid, with interest, all possible advances that it may be called upon to make, and relieved, by payment of the bonds the interest on which it guarantees, from every liability of loss.

The committee, finally, advert merely to the great advantages that may be expected to accrue from the completion of this work, in the development of the territory it traverses, and the adjoining territory in the neighboring Republic of Mexico, for which it will form a base line of other roads, over which we may reasonably expect in the near future a prosperous and profitable international exchange of the products of industry.

And, in conclusion, beg to submit, that it is a consideration not to be overlooked, that the construction and completion of this new road will not only complete the original intention of the people of this country in reference to the connections between the Atlantic and Pacific coasts, but that it will furnish to the southern system of railroads which now unite the Atlantic seaboard with the Mississippi Valley the natural advantage which it ought to have of an independent connection, upon the same latitudes, with the Pacific coast.

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45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 168.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions have considered the petition of Mrs. Mary C. J. Budlong, praying to be allowed a pension, with arrears from the month of April, 1855, the date of the death of her husband, a soldier in the war of 1812, on account of whose services she asks a pension. The committee report adversely on the application for arrears of pension, and ask to be discharged from the further consideration of the petition, as under the provisions of the amended act lately passed, the petitioner can draw a pension by application to the Bureau of Pensions.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 169.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Ordered to be printed.

Mr. WITHERS, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Nicholas Struit, Company I, Tenth Iowa Volunteers, and the accompanying papers, find that the claimant asks a pension on account of loss of right leg, which he alleges occurred in consequence of hernia contracted in the service. The evidence shows that he was treated in hospital for nephritis and rheumatism; that his leg was amputated long after his discharge from the Army, in consequence of disease of the knee-joint, and the examining surgeons at the Soldiers' Home at Dayton, Ohio, certify that no hernia exists in his case.

The committee therefore ask that they may be relieved from the further consideration of the petition, and the same be indefinitely postponed.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 170.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Agreed to and ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Boley S. Pate, late private Company D, Second Kansas Volunteers, have had the same under consideration, and submit the following report:

The claimant was enrolled in the Second Kansas Volunteers November 16, 1861, and mustered out January 20, 1865, by reason of expiration of term of service. His claim was filed in Pension Bureau July 13, 1868, and was barred under section 4717 Revised Statutes, and he appeals to Congress for relief. There is no evidence showing that the present disabilities of claimant were incurred in the military service, and in the line of duty. Neither the Adjutant-General's Office nor Surgeon-General's Office records show that he was treated in the hospital at Fort Smith, Arkansas, for scurvy, as alleged. The only evidence adduced to sustain the claim is the officer's certificate of disability and the affidavit of Dr. Heath, who treated claimant for scurvy two years after his discharge from the Army, who expresses the opinion that claimant's present disabilities are referable to scurvy.

The committee do not deem the evidence satisfactory, or as establishing the claim for relief, and ask to be discharged from the further consideration of the petition.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 171.

IN THE SENATE OF THE UNITED STATES.

MARCH 19, 1878.—Agreed to and ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, submitted the following

REPORT:

The Committee on Pensions, to whom was referred the petition of Edward Perry, Company A, Sixth Regiment Connecticut Volunteers, have had the same under consideration and report:

The claim of petitioner is for arrearage of pension.

The committee having uniformly rejected similar petitions, they ask to be discharged from its further consideration.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 172.

IN THE SENATE OF THE UNITED STATES

MARCH 20, 1878.—Ordered to be printed.

Mr. MCMILLAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 250.]

The Committee on Claims, to which was referred the bill (S. 250) for the relief of the National Bank of Western Arkansas, has had the same under consideration, and submits the following report:

The bill provides for the payment to the National Bank of Western Arkansas the sum of $945, the amount of a voucher held by them for transporting prisoners of the United States from Fort Smith, Ark., to the penitentiary at Little Rock, Ark.

In response to a communication addressed to the Treasury Department, the First Comptroller of the Treasury transmitted a copy of the claim as presented to the department by P. K. Roots, cashier of the bank above named, by letter dated September 4, 1873.

The claim as presented is an indebtedness of the United States to C. D. Mesler, deputy United States marshal for the western district of Arkansas, for the transportation from Fort Smith, Ark., to the penitentiary at Little Rock, Ark., of twenty prisoners named in the account	$500
Five days' feeding prisoners, at $2.25	225
Transportation of self	25
Transportation of seven guards	175
Removing prisoners from dock to prison	20
Making, in all	945

The account is verified by Mesler, the deputy marshal. W. A. Britton, late United States marshal, &c., in his affidavit made on the 3d of September, 1873, states that according to his best knowledge and belief the account is just and correct, and due as stated; and that he has not charged the same in any of his accounts theretofore rendered, and will not claim any credit for this account in his final settlement with the government, and recommends that it be paid to the claimant direct.

The account is assigned by Mesler to the bank. Judge Story, the district judge, has indorsed his examination and approved of the account, except the last item for removing prisoners from dock to prison—$20—which is not allowed.

The Comptroller, in his communication to the committee, says, "The reason why no part of the claim has been allowed is that it was not rendered by the marshal under whom the deputy acted. The marshal alone is entitled to charge mileage and fees for the service of judicial process. He is required by law to account for the earnings of his office, and if they exceed the maximum compensation allowed him by law after the payment of expenses, he must pay the surplus into the Treasury.

Hence this department does not settle with the deputies; they must look to their principals."

The reasons stated by the Comptroller for not allowing any portion of the claim are valid, and quite sufficient to sustain his conclusion. The law prescribes the mode in which the accounts of United States marshals shall be settled, and that mode might have been pursued in reference to the account in question. No reason is apparent why the regular course was not followed. Under such circumstances, although the Comptroller has stated what would be the allowance in the case if the account were adjusted, reducing the account, as presented to the department, to $472.50, with a possible addition of $19.50, the committee is of opinion that Congress should not interfere, but leave the matter to be settled in the manner prescribed by law. The committee recommends that the bill be indefinitely postponed.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 173.

IN THE SENATE OF THE UNITED STATES.

MARCH 20, 1878.—Ordered to be printed.

Mr. TELLER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 913.]

The Committee on Claims, to whom was referred the petition of Michael Granery, Nicholas Ware, and Moline Lange, praying to have refunded to them $500 each, being for the amount collected from them, respectively, on a bond given to the provost-marshal of the district of Baton Rouge, La., in 1863, for the appearance of one B. F. Rhodes, to answer a criminal charge preferred against him, have had the same under consideration, and make the following report:

The facts connected with this claim, as ascertained from the proofs, documentary and otherwise, as well as the sworn petition of the claimants, are, that while the district of Baton Rouge, La., was under military law, a certain B. F. Rhodes was arrested by the order of Col. D. H. Pardee, then provost-marshal of that district, and imprisoned upon a criminal charge; and that prisoner, being sick, made application to claimants to enter into bond for his appearance when required in the sum of $1,500, the claimants to be bound in the sum of $500 each. The bond was executed and the prisoner discharged; that, being sick at the time of his discharge, the prisoner went to the residence of his sister, where very soon he died of what was supposed to have been small-pox; that upon the application of claimants to be discharged from their bond they were told by the provost-marshal that they were still bound, notwithstanding the death of their principal, and that unless they paid the amount of the bond they would be imprisoned; that claimants declined to pay, and were actually imprisoned, and thereby compelled to pay the required sum in order to be released from prison. Receipts were given to the claimants for the sum of $500 each. The committee are satisfied that the bond taken was conditioned for the appearance of the prisoner, and that his death occurred before there was a forfeiture of the bond.

It appears by an extract furnished by the War Department that Pardee reported this fund as in his hands, and was charged with it in the settlement of account with the Provost-Marshal-General.

As the money has gone into the Treasury, and the claimants were not in default, the committee recommend that it be returned to the claimants, and report the accompanying bill and recommend its passage.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 174.

IN THE SENATE OF THE UNITED STATES.

MARCH 18, 1878.—Ordered to be printed.

Mr. HOAR, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 61.]

The Committee on Claims, to whom was referred the bill (S. 61) for the relief of the Richmond Female Institute, of Richmond, Va., have considered the same, and report that it ought to pass.

This bill has already passed both houses, but failed to be presented to the President in time to receive his signature before adjournment. The petitioners are an incorporated charitable institution. April 9, 1865, their buildings were taken possession of for Army headquarters, and occupied as such and for the Freedmen's Bureau until October 10, 1866. A board of officers was convened by General Terry, under orders from Major-General Turner, who, after hearing evidence, found $400 a month to be a reasonable rent for the premises. This rent was paid by the quartermaster until October 1, 1865. Payment of rent then ceased by order of the Quartermaster-General, who subsequently recommended the payment of rent from April 2, 1866, but claimed the right to compel repayment of the rent paid from April to October, 1865, as having been received by the institute contrary to law.

We are of opinion, first, that the United States having voluntarily paid the rent from October to April, 1865, there is no reason for attempting to recover it back; second, that the rent from April 6 to October 10, 1866, is clearly due to the petitioners, the United States having used and occupied their premises after the close of the war and the complete restoration of the authority of the United States.

As to the period from October 1, 1865, to April 2, 1866, the owners' claim lacks the technical foundation of the assent of the Quartermaster-General to the contract of hiring. But the premises were taken and occupied under an assurance that they should be paid for, given by the commander of the department and approved by his successor. This was long after the actual termination of hostilities, and when a hostile capture of private property for purposes of military use would have been justly regarded by the whole country as an act of unjustifiable severity. Under such circumstances, where the commanding officer, instead of destroying or taking as enemies' property an institution of learning, sees fit to treat it otherwise and to hire it, in our judgment public policy requires that his act should be ratified.

The committee further submit, for the information of the Senate, a

report made from the Committee on Claims, April 26, 1875, by Mr. Cockrell, relating to the same case:

Forty-fourth Congress, 1st session. Senate Report No. 283.

Mr. Cockrell submitted the following report, to accompany bill S. 780.

The Committee on Claims, to whom was referred the petition of the Richmond Female Institute, through its trustees and treasurer, Wellington Goddin, have duly considered the same, and submit the following report:

The Richmond Female Institute was duly incorporated by the legislature of the State of Virginia on March 2, 1853, for the education of females, and placed under the charge and control of a board of trustees, with a treasurer, and Wellington Goddin was duly appointed treasurer, and has ever since continued and now is the treasurer, duly qualified and acting.

Soon after incorporation, large and expensive buildings were erected for school purposes, and a female school opened and continued.

On the 9th day of April, 1865, Colonel James, quartermaster, took possession of the institute buildings for Army headquarters for General Schofield. Very soon afterward the treasurer, Mr. Goddin, made application to Colonel James for rent, and the matter was referred to the commanding officer, and a board of officers was convened by General Terry, under orders of Major-General Turner, to estimate and determine the rate of rent or rental value of the institute-buildings.

In July, 1865, this board of officers duly met and considered the question of rent, heard evidence, and decided that the institute-buildings so used by the Army were reasonably worth $400 per month.

About October 24, 1865, Colonel James, the quartermaster, in pursuance of the estimate and decision of the board of officers, paid to Treasurer Goddin the rent, at the rate of $400 per month, from April 9, 1865, to October 1, 1865, amounting to $2,293. Application for this payment of rent was made about October 1, 1865.

The buildings were occupied for Army purposes, and were necessary for such purposes, up to October 10, 1866. Rent is now claimed at the rate of $400 per month from October 1, 1865, to October 10, 1866, amounting to $4,933.33.

No rent was paid after said payment made October 24, 1865, as above stated.

October 25, 1865, by order of the Quartermaster-General, the further payment of rent was stopped.

July 31, 1866, a claim for rent from October 1, 1865, to August 1, 1866, ten months, was presented, and General Terry, commanding at Richmond, indorsed on same:

"The building of the Baptist Female Institute was seized immediately after the evacuation of Richmond for the headquarters of the department, and is still occupied as such. I propose to restore it to its owners on the 1st of September. Inasmuch as it belongs to an educational and charitable institution, which could not have taken part in the rebellion, I respectfully recommend that this bill for rent be paid."

August 28, 1866, Hons. Joseph Segar and Parker, of Virginia, applied to have the buildings restored.

September 7, 1866, General Schofield, commanding at Richmond, indorsed the same as follows:

"Respectfully returned to the War Department, with report that the building referred to accommodates all the officers connected with department headquarters, including those of the Freedmen's Bureau, and that no other suitable building can be obtained for the purpose in Richmond.

"Therefore, I cannot consent to the proposed surrender of the building. But I recommend, for the reasons stated by General Terry in the within indorsement of July 31, that the claim for rent be paid."

February 26, 1867, the following letter was addressed to the Secretary of War, to wit:

"QUARTERMASTER-GENERAL'S OFFICE,
Washington, D. C., February 26, 1867.

"SIR: I have the honor to return herewith the papers in the claim of the Richmond Female Institute, through Wellington Goddin, treasurer, for the use of the building by the military authorities from April 2, 1866, to October 12, 1866, at the rate of $400 per month, amount, as stated, $2,533.33, said rental being fixed by a board convened by General Terry, the claim having been referred to this office by the War Department, January 18, 1867, together with previous papers, for report.

"I have the honor to report that a claim for rent of this property, amounting to $4,000, was presented August 15, 1866, by Rev. J. B. Jeter, which was returned disallowed August 17, 1866, by reason of 'the building being used as a hospital by the rebels; the owners were rebels. It was a public building in a captured city, and the sum of $2,293 has already been paid contrary to the rules and orders governing the Quartermaster's Department.'

"November 9, 1866, the claim was received back, and on the 14th of that month it was returned to the Third Auditor, again disallowed. The following extract appears in the letter to the Third Auditor: 'No rent can be paid for this property previous to April 2, 1866, the date of the President's proclamation, as existing orders from the War Department forbid the payment of rents for property used by the United States in the late rebellious States before that time.'

"January 4, 1867, E. M. Garnett, attorney, forwards to General Blunt amended account, dating from April 2, 1866, which account is referred by the War Department, January 18, 1867, for report (as previously herein stated).

"In view of the facts as stated, I respectfully recommend that payment of rent be allowed the claimant, at a rate to be approved by the commanding general of Department of the Potomac, from April 2, 1866, during period of United States occupation of the premises; provided, that the amount of rent paid previous to April 2, 1866, $2,293, be deducted from the amount which may be due for rent since April 2, 1866, the date of the proclamation of the President.

"Very respectfully, sir, your obedient servant,

"D. H. RUCKER,
"*Acting Quartermaster-General, Brevet Major-General, United States Army.*

"Hon. E. M. STANTON,
"*Secretary of War, Washington, D. C.*"

"ADJUTANT-GENERAL'S OFFICE, *March* 9, 1867.

"Respectfully referred to Major-General E. R. S. Canby, president Claims Commission.

"E. D. TOWNSEND,
"*Assistant Adjutant-General.*"

The claim was then referred by the Adjutant-General to Major-General E. R. S. Canby, president Claims Commission, and on March 14, 1867, the Claims Commission made the following decision, to wit:

"WAR DEPARTMENT,
"OFFICE OF THE CLAIMS COMMISSION,
"*Washington, D. C., March* 14, 1867.

"In the matter of the claim of the Richmond Female Institute for compensation for the use and occupation of the institute-building by the United States military authorities from April 2, 1866, to October 12, 1866.	No. 862.—Decision.

"It appears from the papers and the evidence on file with the commission that this claim comes within the prohibitory clauses of the act of Congress approved July 4, 1864, as amended and construed by an act passed by the Thirty-ninth Congress, entitled 'An act to declare the sense of an act entitled "An act to restrict the jurisdiction of the Court of Claims, and to provide for the payment of certain demands for quartermaster's stores and commissary supplies furnished to the Army of the United States,"' received by the President on the 9th of February, 1867, which amendatory act provides that the aforesaid act of July 4, 1864, 'shall not be construed to authorize the settlement of any claim for supplies or stores taken or furnished for the use of, or used by, the armies of the United States, nor for the occupation of, or injury to, real estate, nor for the consumption, appropriation, or destruction of, or damage to personal property, by the military authorities or troops of the United States, where such claim originated during the war for the suppression of the southern rebellion, in a State, or part of a State, declared in insurrection by the proclamation of the President of the United States, dated July 1, 1862, or in a State which, by an ordinance of secession, attempted to withdraw from the United States Government.'

"It is therefore rejected.

"A true copy.

"DE WITT CLINTON,
"*Bvt. Lieut. Col., Recorder.*"

"ADJUTANT-GENERAL'S OFFICE, *March* 18, 1867.

"Respectfully submitted to the Secretary of War.

"E. D. TOWNSEND,
"*Assistant Adjutant-General.*"

"WAR DEPARTMENT, *March* 21, 1867.

"The decision of the Claims Commission, rejecting the claim of the Richmond Female Institute for compensation for the use and occupation of the institute-building by the United States military authorities, from April 2, 1866, to October 12, 1866, is

approved and confirmed; and the case is referred to the Quartermaster-General in order that the decision may be noted, these papers to be returned to the War Department for file.

"By order of the Secretary of War:

"LOUIS H. PELOUZE,
"*Assistant Adjutant-General.*"

"ADJUTANT-GENERAL'S OFFICE, *April* 5, 1867.

"Respectfully transmitted to the Quartermaster-General, U. S. A.

"E. D. TOWNSEND,
"*Assistant Adjutant-General.*"

"QUARTERMASTER-GENERAL'S OFFICE,
April 20, 1867.

"Respectfully returned to the Secretary of War. The action has been noted on Quartermaster-General's decision-book No. 6, page 229.

"D. H. RUCKER,
"*Acting Quartermaster-General, Brevet Major-General.*"

This decision was approved by the Secretary of War.

From the foregoing it is admitted that the rent is properly payable from April 2, 1866, to October 10, 1866, but the Quartermaster's Department claims the right to deduct from such rent the amount voluntarily paid from April 9, 1865, to October 1, 1865.

Your committee can see no just grounds upon which this deduction can be claimed or allowed, and find that the rent from April 2 to October 10, 1866, six months eight days, amounting to $2,506.66, is justly due to the claimant.

The material and more difficult question is, whether rent from October 1, 1865, to April 2, 1866, can be properly allowed.

The president, in pursuance of the act of Congress approved July 13, 1861, did, by his proclamation of August 16, 1861, declare that the inhabitants of the State of Virginia, excepting the inhabitants of that part of Virginia lying west of the Alleghany Mountains, and of such other parts of that State as may maintain a loyal adhesion to the Union and Constitution, or may be from time to time occupied and controlled by the United States forces, to be in a state of insurrection.

By act of Congress approved December 31, 1862, provision was made for the recognition of the State of West Virginia as a separate State in the Union, based upon the action of a convention assembled in Wheeling, November 26, 1861, and a general election held in pursuance of the action of said convention on May 3, 1862, and upon an act of the legislature of Virginia, passed May 13, 1862, consenting to the formation of a new State within the jurisdiction of the State of Virginia, to be known as West Virginia.

On the 9th day of May, 1865, the President, by executive order, declared the authority of the United States re-established in Virginia, and directed the Secretary of State, the Secretary of the Treasury, the Postmaster-General, the district judge of said district, the Secretary of War, the Secretary of the Navy, and the Secretary of the Interior to put in force all laws of the United States pertaining to their respective departments, and guaranteed to Francis H. Pierpont, governor of the State of Virginia, the aid of the Federal Government, as far as may be necessary, in all lawful measures for the extension and administration of the State government throughout the geographical limits of the State.

On April 2, 1866, the President, by proclamation, declared that the insurrection in the States of Georgia, South Carolina, Virginia, North Carolina, Tennessee, Alabama, Louisiana, Arkansas, and Mississippi was at an end. The claimant, the Richmond Female Institute, as a body-politic or incorporation, did not participate in the rebellion, and although its property might be the lawful subject of seizure and occupation by the United States troops at the capture of Richmond, Va., by reason of its locality, yet this was a right which the government could waive, and, as your committee think from the actions and proceedings of Generals Terry, Turner, and Schofield, did waive in this case, and had the rental value of the buildings duly determined, and voluntarily paid the rent up to October 1, 1865.

In view of all the facts in this particular case, your committee think the claimant entitled to the rent from October 1, 1865, to October 10, 1866, amounting to $4,933.33, and recommend the passage of the accompanying bill herewith reported. In addition to the foregoing there is another view of this particular case. It is this: by the law of nations institutions of learning are exempted by all civilized nations from the hostilities of war. They are to be classed, in this respect, with public libraries, hospitals, &c.

Our government in its "instructions for the government of armies in the field," originally prepared by Dr. Lieber, revised by a board of officers, of which Major-General Hitchcock was president, and approved by President Lincoln in 1863, binds itself by these rules, as follows: "As a general rule, the property belonging to churches, to hospitals, or other establishments of an exclusively charitable character, to establishments of education or foundations for the promotion of knowledge, whether public schools, universities, academies of learning, or observatories, museums of the fine arts or of a scientific character, such property is not to be considered public property in the sense of paragraph thirty-one, but it may be taxed or used when the public service may require it." See paragraph 34, General Orders No. 100, Adjutant-General's Office, section 2.

This order, in connection with the acts of the officers in charge of our armies in Richmond, clearly shows that the government occupied the institution with the express understanding and intention of paying rent for same.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 175.

IN THE SENATE OF THE UNITED STATES.

MARCH 20, 1878.—Ordered to be printed.

Mr. HARRIS, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2096.]

The Committee on Claims, to whom was referred the bill (H. R. 2096) for the relief of James Fishback, report as follows:

Having carefully examined the evidence in the case, we adopt the report of the House Committee of Claims, as follows:

That said James Fishback was collector of internal revenue from the 23d day of May, 1873, to the 16th day of August, 1876; that said collector employed in his office, as a clerk, George W. Balsley, from the 1st day of July, 1873, to the 20th day of December, 1873, and paid him for his services as such clerk for the time mentioned the sum of $521.35; that said clerk was actually necessary to enable the said collector properly and faithfully to discharge the duties of his office, and was continuously and constantly employed in said office during the period named in making the reports required, keeping the records of said office, and performing other work clerical in character; and that during all the time stated said collector gave his constant personal attention to the duties of his office, and was occupied in the discharge of his official duties and in the supervision of his office.

The committee further report that said collector had a large district, embracing ten large counties; that when said collector entered upon the duties of his said office on the 23d day of May, 1873, he found said clerk in the collector's office; that he was allowed pay for said clerk up to the 1st day of July, 1873; that after that time he continued said clerk, and did not know he was not to be allowed a clerk until in the month of September, 1873; that then said collector instituted a correspondence with the Internal Revenue Office, with the view of satisfying the Commissioner of the actual necessity of such clerk in his office, but not succeeding, he finally discharged said clerk December 20, 1873.

Inasmuch as it clearly appears that such services were actually rendered by said George W. Balsley, and were for the benefit of the government, and that said clerk was absolutely necessary to a proper and faithful discharge of the duties of said office, and as the compensation of the collector was not large for the labor and responsibility of his office, being only $2,500, out of which he had to pay all his traveling and other expenses, the committee believe said collector should be reimbursed the amount paid by him to said clerk.

A letter from the Commissioner of Internal Revenue to the committee states that vouchers were filed with the accounts of said collector for the services of said clerk, and that the collector has not been reimbursed the amount paid for the same; that by the act of Congress of February 8, 1875, the department is now debarred from making an allowance to cover this expenditure, more than a year having elapsed since the services were rendered; and the Commissioner recommends the passage of the bill.

From the statement of said collector it further appears that, after his correspondence with the Internal Revenue Office, prior to the discharge of said clerk, December 20, 1873, the Commissioner of Internal Revenue became satisfied that a clerk was necessary, and allowed said collector to, and he did, re-employ the said Balsley as a clerk in his said office, and retained him while he held the office.

The committee therefore report back the bill, and recommend its passage.

IN THE SENATE OF THE UNITED STATES.

MARCH 20, 1878.—Ordered to be printed.

[ARRIS, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 954.]

'ommittee on Claims, to whom was referred the two petitions and ›mpanying papers of T. A. Walker, late register of the United States l-office, at Fort Des Moines, Iowa, have carefully considered the same, submit the following report:

the petition No. 1, petitioner asks to be reimbursed moneys ex- d by him for clerk-hire and office-rent, rendered necessary by the ally large quantity of land entered at his said office for the first ears of his official term.

l petition No. 2 asks to be reimbursed money expended by the ›ner for the hire of one additional clerk and the rent of a larger rendered absolutely necessary by the consolidation of the Iowa and-office with the Fort Des Moines office during the third and ear of his official incumbency.

ition No. 1 was referred to the Senate Committee on Claims, sec- ›ssion of the Forty-fourth Congress, when the following report was by said committee, which report your committee find, upon exami- ı, well sustained by the evidence, and adopt the same, as follows:

committee wrote a letter of inquiry to the Secretary of the Interior, and re- through him the following report from the Commissioner of the General Land- to wit:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 14, 1877.

I have the honor to acknowledge the receipt, by reference from the depart- of a letter from Hon. F. M. Cockrell, for Committee on Claims of the United Senate, dated the 8th instant, and in reply to the inquiries therein contained, fully state that Thomas A. Walker, late register of the United States land-office Des Moines, Iowa (bond dated June 1, 1854), entered upon the duties of his une 15, 1854, and turned over to his successor the books, papers, &c., of the September 15, 1857.

›ublic lands disposed of during his official incumbency, the amount of military -land warrant fees collected, and the amount paid him, pursuant to a decision of ted States Supreme Court, January term, 1841, in the case of the United States ›n, receiver of Choctaw district, Mississippi (15 Peters, 141), for salary, commis- ınd fees, were as follows:

Years.	Area sold for cash.	Area located with military bounty-land warrants.	Amount of military bounty-land warrant fees received.	Amount paid register as salary, commissions, &c.
ıe 15 to December 31	709,444.22	80,680.00	$2,017 00	$2,771 98
ıuary 1 to December 31	908,794.09	752,740.35	18,818 87	3,000 00
ıe 1 to December 31	63,388.41	353,996.00	8,849 94	1,756 11
ıuary 1 to September 15	400.00	2,815.85	.....	365 66
	1,682,026.72	1,190,232.20	29,685 81	7,892 75

It has been held that the entire amount of register's and receiver's fees collected for locating military bounty-land warrants is to be accounted for by the receiver, to be by him deposited in the United States Treasury, as other proceeds from the disposal of public lands; the said fees to be again paid out by warrant, with limitation as regards the legal maximum of compensation to the respective officers alluded to.

The fees received, amounting to $29,685.81, referred to in the foregoing table to have been accounted for by the former receiver, and is presumed to have been paid into the Treasury, inasmuch as but a small balance appears against him upon the books of this office.

The following United States land-offices were allowed for payment to clerks, rendered necessary in consequence of the magnitude of the sales of Osage and other Indian lands, the sums paid to them having been charged against the proceeds as expenses incident to the sale of such lands, viz:

David B. Emmert, receiver at Humboldt, Kans	$3,145 00
William Q. Jenkens, register at Wichita, Kans	3,207 50
M. W. Reynolds, receiver at Independence, Kans	2,041 66

The act of Congress of 7th July, 1876, allowed Ariel K. Eaton, late receiver, and James D. Jenkins, former register, at Decorah and Osage, Iowa, $3,600 each on account of payments for the services of clerks, upon the ground that such employment was necessary, owing to the large number of entries of land at that office.

By act of 18th February, 1861, section 2255, Revised Statutes of the United States, the Secretary of the Interior is authorized to approve the employment for a limited period, and at a reasonable per diem compensation, of one or more clerks in the office of a register of a consolidated land-office, &c.; but with this exception there is no direct authority of law for the employment of clerks at the expense of the United States in the offices of the registers and receivers of the United States district land-offices.

I have not the data which enable me to state precisely what additional force was necessary or was employed at the Des Moines office during the period referred to, but know that the requirements were far greater than those of most other offices, on account of the large excess in sales of land over other offices, and it was during this period that it became a consolidated land-office; and I know that clerks were employed, and the merits of a claim for reimbursement, therefore, are to my knowledge far superior to those of the Decorah and Osage offices, in regard to which the evidence was ample beyond all doubt.

The letter of Senator Cockrell is herewith returned.

Very respectfully, your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. Z. CHANDLER,
Secretary of the Interior.

The following certificate accompanied the petition, to wit:

DES MOINES, IOWA, *November* 22, 1876.

I, F. G. Clarke, register of the United States land-office at Des Moines, Iowa, do hereby certify that the records of this office show that while Col. T. A. Walker was register of said office there was entered from the 15th day of June, 1854, to the 15th day of June, 1856, at said office, the following amount of public lands, to wit:

	Acres.
By military land-warrants, various acts	1,169,831.00
By cash entries	1,558,196.75
Making a total entered, during said time, of	2,728,027.75

I also certify that quite a proportion of said lands entered by warrants were small warrants, calling for forty and eighty acres each.

F. G. CLARKE, *Register.*

The claimant, in his petition, verified by affidavit, states that during his first two years he was obliged to employ a large clerical force to discharge the duties of his office and to accommodate the public, and that he did so believing that he and the receiver were entitled to the land-warrant fees received, and that during these two years he paid out $5,340 for clerk-hire and never received any allowance or compensation therefor, and only received his salary, $3,000 per annum, and that the force of clerks hired by him was absolutely necessary to subserve the public.

The facts stated are substantiated by the sworn evidence of many witnesses, who were present and had personal knowledge of what they say.

The necessity for this course is so forcibly stated by Judge Love, of the United States circuit court, in his opinion in Babbitt's case, that your committee introduce the following extract from his opinion:

"The history of the land-sales of 1855 will place the object of Congress, in passing *the sixth* section (act of 1855), in a clear and definite light. The rage of speculation

had, during that year, nearly reached its height. Multitudes of people besieged the land-offices, clamorously demanding the location of their warrants. Many millions of acres of land were disposed of in Iowa in an incredibly short space of time. Under these circumstances it was manifest that no ordinary force of clerks and no ordinary means and appliances were sufficient to meet the exigencies of the service. The salaries of the officers were wholly inadequate to meet these expenses. Hence, Congress had either to provide the means of paying such expenditures out of the public Treasury, or of enabling the land-officers to do it by authorizing them to receive fees adequate to that purpose from those for whose benefit the services were performed and the expenses incurred. Congress chose the alternative least burdensome to the public Treasury."

Under the belief, which prevailed generally at that time, that the fees received for locating warrants belonged to him, the receiver, and were intended to compensate him for his services and expenses in locating warrants, Mr. Walker employed the necessary clerks, and incurred the other necessary expenses to enable him to transact the immense business crowding upon him promptly, correctly, and to the entire satisfaction of his customers and the government.

In the opinion above referred to, Judge Love points out the greatly-increased labor and responsibility of land-officers under the land-warrant system. He says:

"In cash sales the officer had but to count the gold and issue the certificate. In cash sales, one written application and one certificate were sufficient for a whole section. How different is it under the land-warrant system. In the location of warrants, the officers have to examine the assignments, oftentimes numerous, and sometimes by guardians, &c., and pass upon their validity. This is often a delicate and responsible duty. A separate application and separate certificate have to be written for every warrant. With 160-acre warrants, four applications and four certificates were required for a section of land, and with 40-acre warrants sixteen applications and sixteen certificates were required for the same quantity of land."

No allowance whatever has ever been made him for any clerical or other expenses. Hence the officer has paid out of his own pocket all the expenses for running the office and transacting this large amount of business in so short a time.

Under these circumstances, your committee are of the opinion that the government ought to reimburse this officer for the money he thus necessarily paid out and expended for clerical assistance for the benefit of the government and the public.

In the case of Ariel K. Eaton and James D. Jenkins, receiver and register at Decorah and Osage, Iowa, referred to in letter of Commissioner of General Land Office, this Congress, at its first session, allowed each of them $3,600. The claim of Mr. Walker is equally if not more meritorious.

Your committee therefore recommend that the petitioner be paid the sum of $3,600, to reimburse him for money paid by him for clerk-hire and office-rent for and during the two years beginning June 15, 1854, and ending June 15, 1856.

In petition No. 2, petitioner asks to be reimbursed the sum of $1,517.75, paid by him for the hire of an extra clerk and the rent of an additional room from April 15, 1856, at which time the Iowa City land-office was consolidated with the Fort Des Moines office, to September 27, 1857, at which time petitioner retired from the office.

The petition, which is sworn to, recites—

The undersigned, being register of the land-office at Fort Des Moines, was compelled, in consequence of the increase of business, to remove his office into larger rooms and to employ an additional clerk, the vouchers for which are herewith transmitted. The additional business devolved upon the office by the consolidation rendered the employment of one additional clerk indispensable, as well as added to the labors and duties of the undersigned.

The clerk employed, James A. Moore (see voucher No. 1), was engaged upon business thrown into the office after its consolidation, and the room-rent paid (see voucher No 2) was paid for rooms occupied and rendered necessary by the consolidation, and at no time during the period charged for could the services of the additional clerk have been dispensed with or would suitable rooms have been obtained for less price.

This statement is corroborated by the vouchers referred to and various affidavits.

The act of February 18, 1861, 12 Statutes at Large, page 131, being section 2255 of the Revised Statutes, authorizes reasonable allowance for the hire of clerks, &c., on application to and approval by the Secretary of the Interior.

But the petitioner, being at the time ignorant of this statute and believing himself entitled to the fees collected, expected to and would have been abundantly able to have paid all of these expenses out of said fees, and reserved to himself after paying them a much larger compensation than the $3,000 per annum allowed by law.

Hence, without consulting the department, he incurred and paid these expenses out of his own funds, and subsequently paid into the Treasury, as he was required to do by law, the fees collected by him, amounting to over $29,000, and received his salary of $3,000 per annum.

Clear as the sworn petition and accompanying vouchers and affidavits seem to make this case, your committee addressed a letter to the Secretary of the Interior, asking such information as the records of that department contained touching this claim, and received the following answer:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., January 28, 1878.

SIR: Your letter of the 23d instant, calling for information concerning the claim of T. A. Walker, formerly register of the land-office at Des Moines, Iowa, for allowance for office-rent and clerk-hire, was received and referred to the Commissioner of the General Land Office. I have the honor to transmit herewith a copy of his report on the subject, received to-day.

I am, sir, very respectfully, your obedient servant,

C. SCHURZ,
Secretary.

Hon. ISHAM G. HARRIS,
United States Senate.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 26, 1878.

SIR: I have the honor to acknowledge the receipt, by your reference of the 24th instant, of a letter from Hon. Isham G. Harris, dated the 23d instant, requesting, on behalf of the Senate Committee on Claims, such information as the records of this department afford, touching the claim of T. A. Walker, esq., sometime register of the Fort Des Moines, Iowa, land-office, for an allowance of $1,517.75, as reasonable compensation for expenses incident to the consolidation of the Iowa City office with his, in 1856, said claim being presented under act of February 18, 1861, Statutes, vol, xii, p. 131, now embraced in section 2255 of the Revised Statutes.

Respecting this claim, I find from the records that it was duly filed for settlement in January, 1862; but for some unexplained reason was not acted upon at that time.

On February 2, 1877, J. M. Walker, esq., filed in this office a sworn statement, requesting that the matter be taken up for action; and on the 8th of the same month I addressed your predecessor as follows:

"SIR: Herewith I have the honor to transmit an account of T. A. Walker, late register of the land-office at Des Moines, Iowa, for clerk-hire and rent paid by him under the terms of the act of Congress February 18, 1861, in relation to consolidated land-offices.

"This account was filed in this office on January 25, 1862, but has never been acted upon. It appears to be just and regular, and is sustained by the affidavits of the register. Although held in abeyance for a long period, there seems to have been no sufficient reason why it should not have been allowed at the time, and, if so, it is now doubly important that it be settled without further delay.

"The third section of the act referred to indicates cases of this character, and in my opinion the account may be defrayed out of the appropriation for contingent expenses of local land-offices, for the current year.

"I therefore submit the matter for your consideration, with the recommendation that this office be authorized to state the account and submit it to the Treasury Department for payment.

"Very respectfully, your obedient servant,

"J. A. WILLIAMSON,
"*Commissioner.*"

To this communication the following reply was received:

"DEPARTMENT OF THE INTERIOR,
"OFFICE OF THE SECRETARY,
"*Washington, D. C., February* 20, 1877.

"SIR: I have received your letter of the 8th instant inclosing a claim of T. A. Walker, former register of the land-office at Des Moines, Iowa, for office-rent and clerk-hire, amounting to $1,517.75.

"The account appears to have been filed in the department and referred to your office in January, 1862. Why it has been permitted to sleep these fifteen years is not apparent from the papers; but I cannot reconcile it with my sense of official duty to approve it at this late day. The papers are herewith returned.

"Very respectfully,

"CHAS. T. GORHAM,
"*Acting Secretary.*

"Hon. J. A. WILLIAMSON,
"*Commissioner General Land-Office.*"

These communications appear to cover the matter now before me, and I have only to repeat what I at the first reported, that in my judgment Mr. Walker was justly entitled to the compensation which was especially provided by the act of 1861 for precisely such cases; and if by reason of long and obviously improper delay the claim has passed beyond the power of the department to satisfy, it should be placed by Congress on its proper footing, and rendered capable of speedy adjustment.

Very respectfully,

J. A. WILLIAMSON,
Commissioner.

Hon. C. SCHURZ,
Secretary of the Interior.

Being satisfied that the petitioner is entitled and should be reimbursed the sum of $3,600 for clerk-hire and office-rent paid by him during the two first years of his official term, and the sum of $1,517.75 for clerk-hire and office-rent rendered necessary by the consolidation of the two offices during the third and last year of his term, and paid by him, the committee report the accompanying bill and recommend that it pass.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 177.

IN THE SENATE OF THE UNITED STATES.

MARCH 20, 1878.—Ordered to be printed.

Mr. MORGAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 955.]

The Committee on Claims, to whom was referred the bill (S. 271) for the relief of the estate of John Waters, deceased, have had the same under consideration, and report as follows:

Capt. A. W. Mills, who was assistant quartermaster of the Army, stationed at Nashville, Tenn., gave to John Waters two certificates on Form No. 22, for the rent of a dwelling, No. 15, on North College street, in that city. The first is dated December 31, 1863, and is for rent of said house from June the 1st to December 31st, 1863, at $75 per month. The other is dated January 31, 1865, and is for the rent of the same house from the 1st of January, 1864, at $100 per month; the amount of said certificates being $1,825. On the face of each certificate is the following indorsement: "Payable hereafter as the government may direct."

These vouchers passed through the office of the Quartermaster General and the offices of the Third Auditor and Comptroller of the Treasury, and were found correct, but payment was refused because the officers of the Treasury Department were prevented by the act of Congress of February 21, 1867, from settling and paying such claims when they originated in States lately in rebellion.

The loyalty of John Waters is very clearly established. There is no reason to suppose that this dwelling-house was seized or taken possession of by the Army of the United States as captured or abandoned property. To the contrary, the certificates given him by the quartermaster indicate a lease by agreement, and he returned the property, as having been leased by him, in his reports to the Quartermaster-General's Office. The rate per month of the rental was stated in the certificates. Nothing was left open but that the payment should be made as the government might direct.

Your committee are of the opinion that it is the duty of the government to pay the debt according to the agreement as shown in the certificates of the quartermaster, and accordingly report the accompanying substitute for the bill referred to them, (S. 271), and recommend its passage.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 178.

IN THE SENATE OF THE UNITED STATES.

MARCH 20, 1878.—Ordered to be printed.

Mr. MORGAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 956.]

The Committee on Claims, to whom were referred the papers of W. B. Gosa, of Pine Bluff, Ark., submit the following report:

W. P. Grace, administrator for W. B. Gosa, presents six certified vouchers of Army quartermasters for rent of property at Pine Bluff, Ark., during the months of September, October, November, and December, 1865, and January and February, 1866, stated at $100 each.

Letters of administration to W. P. Grace accompany the vouchers.

It appears from accompanying papers that the accounting-officers of the Treasury were prohibited from paying these vouchers by the act of Congress of February 21, 1867.

By an indorsement on the face of some of the vouchers it appears that the store-house of the claimant had been taken possession of for Army purposes in August, 1864, without a contract of lease. The quartermaster of the post at Pine Bluff, Ark., issued regular vouchers, monthly, for the rent of the property, in the years 1865 and 1866, which were approved by the officer commanding the post, and the accounts were duly reported to the Quartermaster-General, as appears by his indorsement on the papers.

The building was used for offices and warehouses for the subsistence department of the Army at that post. No valid objection to the claim appears, and it is sufficiently established by the vouchers given to the claimant.

Your committee report the accompanying substitute for the bill (S. 271) referred to them, and recommend its passage.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 179.

IN THE SENATE OF THE UNITED STATES.

MARCH 20, 1878.—Ordered to be printed.

Mr. MORGAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 957.]

The Committee on Claims, to whom was referred a bill for the relief of Michael Callahan, of Huntsville, Ala., submit the following report:

The claimant presents five certified quartermasters' vouchers for rent of property at Huntsville, Ala., during the months of August, September, October, and November, 1864, and January, February, March, April, May, June, August, September, November, and December, 1865, amounting to $113.66.

The following is written on the face of the vouchers for the months prior to August 1, 1865:

To be settled hereafter as the government may direct, the claimant being considered loyal.

The accounting-officers of the Treasury rejected this claim on the ground that it was among those prohibited to be paid by them under the act of Congress of February 21, 1867.

These claims were reported by the depot-quartermaster at Huntsville, Ala., as being due, and were so borne upon their accounts.

They were referred by the Third Auditor of the Treasury to the Quartermaster-General, by whom they were examined and found to be correct. In certifying the claims back to the accounting-officers of the Treasury, the Quartermaster-General says: "Payment is not conditional on proof of loyalty. The services have been reported to this office as required by the regulations."

In this case the loyalty of the claimant is vouched for on the face of each certificate given him during the period of hostilities, and it is not to be presumed that the officers of the Army would improperly or heedlessly give such a certificate to a disloyal person.

Your committee recommend that the claim be allowed, and report as a substitute for the bill referred to them (S. 271) the following bill, and recommend its passage.

IN THE SENATE OF THE UNITED STATES.

MARCH 20, 1878.—Agreed to and ordered to be printed.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, submitted the following

REPORT:

The Committee on Claims, to which was referred the petition of Isaac Bloom, of New Orleans, La., praying compensation for certain personal property belonging to him and alleged to have been taken and used by the Army of the United States at Jackson, in the State of Mississippi, in 1863, has considered the same, and submits the following report:

Isaac Bloom, the claimant, was born in Bavaria. He is an Israelite in faith. He came to the United States when a young man, was naturalized, and lived in the vicinity of New Orleans upon a farm for about fifteen years, owned slaves, moved to New Orleans in 1859, and went into the wholesale grocery business, and remained there in business from the beginning to the end of the war. He claims in his petition that he did a business of about $500,000 a year. In 1857 he established a branch store in Jackson, Miss., which he intrusted to his brother Elias to carry on as his agent.

On the 14th of May, 1863, the Federal forces under General Grant, after a severe battle, took Jackson, and the petitioner claims that after Jackson was taken possession of by the Union forces his store was seized and the goods contained therein appropriated for the use of the Federal army.

The amount of the claim is $35,000. The petitioner commenced and prosecuted to judgment an action to recover this claim before the Southern Claims Commission. A large amount of testimony was taken by the commission, and the claim was disallowed upon the ground that the evidence of the claimant's loyalty was not satisfactory.

The claimant now submits to your committee all the evidence taken before the Southern Claims Commission, and additional evidence upon the question of loyalty. It is satisfactorily proved that the claimant did own a store at Jackson in 1863, and that the store contained a large amount of goods. The Southern Claims Commission sent a special agent to Jackson and New Orleans to investigate the case. Such agent reported to the commission as follows:

In this case (Bloom's case) I can find no particular acts or conversations to show whether the claimant was loyal or disloyal. I find a universal impression among men who were originally loyal men and lived there during the war, and who knew the claimant either personally or by reputation, that he was not loyal; but they are unable to state any particular facts, except that he was never known or spoken of as a Union man until after the war, and that he was not molested or threatened by the Confederates. I have found nothing positive against him nor for him in that respect. He belongs to a class of people who study the non-committal art better than most any other people in the world. His neighbors who were the most intimately acquainted with him either do not know or do not choose to tell what his sentiments were during the first part of the war.

To prove his loyalty, Mr. Bloom introduces the testimony of himself, his brother Elias, A. W. Faulkner, and Charles May. He also introduces a letter from William Pitt Kellogg, one from James T. Casey, one from James H. Ingraham, one from L. A. Sheldon, and one from J. H. Sypher. He also introduces the *ex-parte* affidavit of C. W. Kilbourn; also an *ex-parte* affidavit made by one Frank Shepherd; also one by J. D. Crawford, and one by Adolph Carpenter.

Mr. Faulkner knew nothing of claimant's loyalty during the war; met him after the close of the war, and he inferred merely from what he heard that he was loyal during the war.

Charles May was a German baker, and states that he knew claimant during the war and that he was loyal, but the only act he refers to was that when he (May) was raising a company for the Union Army Bloom lent him $30, which he repaid to Bloom.

The testimony of the claimant and his brother Elias clearly shows that the claimant meant to be neutral, to do business, make money, and keep himself safe by doing nothing on either side. The claimant says he could not avoid making small contributions to aid the rebels. He bribed a physician by the payment of $25 to give him a certificate of physical disability and so escaped conscription. The claimant's brother, Elias Bloom, who is also an Israelite, took out a license as a preacher of that faith, and in that way he escaped conscription. Neither of them was in either the Confederate or Union Army.

The claimant, during the whole war, carried on a large business unmolested by the rebels. When the United States Army took New Orleans he contributed nothing and did nothing for the Union cause. He seems to have avoided showing friendship to or making acquaintance with Union officers, and confined himself closely and wholly to his business. His whole conduct and business show that he really had no sympathy with the Union cause; perhaps little beyond his interests as a slaveholder and business man with the Confederate cause. His whole object was to make money, keep himself and his property safe, and really be neutral if he could. His voluntary residence in New Orleans and his continuance unmolested in his large business, without a single act or word, even after the capture of New Orleans, to show any cordial or hearty good will to the Union cause, tend strongly to rebut the allegation he now makes of loyal adherence to the United States Government.

The only act he referred to as showing his loyalty was the furnishing Captain May with $30 when he was raising a company of soldiers for the Federal service; but it appears from Captain May's testimony that it was merely a loan of that sum, which Captain May afterward repaid him.

J. D. Crawford swears in his affidavit that he was acquainted with Isaac Bloom before the war and during the war, and that said Bloom was an ardent supporter of the United States Government from the commencement to the close of the late rebellion, and that he was opposed to the said rebellion and in favor of its suppression. He gives no facts, however, to substantiate this opinion.

Adolph Carpenter swears that he conversed with Isaac Bloom before the capture of New Orleans by General Butler and also after its capture, and, in his opinion, Bloom was loyal.

William Pitt Kellogg states, in a letter written by him to Judge A. O. Aldis, chairman of the Southern Claims Commission, dated November, 1872, that "Isaac Bloom has been, from the commencement of the rebellion up to the present time, a good, loyal citizen and an influential merchant in this State." Governor Kellogg does not pretend to have known

Bloom until after the war, and, consequently, all that he says about his loyalty is mere hearsay.

James H. Ingraham states, in a letter written to Judge Aldis and dated November, 1872, that "from the breaking out of the war up to this date, I have known Mr. Bloom as a loyal citizen, attached to the Union, and a strong supporter of General Grant's election, and used his influence in support of the Republican party of this State."

The evidence in regard to loyalty does not satisfy your committee that he was loyal. It does not rebut the presumption, from residence and occupation, of disloyalty, and does not show that by word or deed he sympathized with the government after New Orleans was captured, and when a sincere Union man could have manifested his Union feelings. His brother and himself, and one or two other persons, testify, as late as 1872, to the secret sentiments of the claimant in favor of the Union during the war. Your committee do not think they ought to deem such evidence sufficient and satisfactory proof of loyal adherence to the cause of the United States Government throughout the war.

The special agent sent by the Southern Claims Commission to Jackson to investigate the claim reported as follows in regard to the taking of the property:

His (claimant's) claim is for a store of goods which he claims was taken by our Army at Jackson, Miss. I find on investigation at Jackson that the pillage of the town of Jackson had been commenced by Confederate soldiers, citizens, and negroes, before the Federal troops arrived. Bloom's store was sacked after our troops reached the place by a crowd of soldiers, who destroyed some, and appropriated such as they could, and gave some to the negroes. They acted without any authority whatever, and the goods were not taken for the use of the Army, but as far as the soldiers took them, were taken by individual soldiers, who went acting the part of plunderers.

This agent further reports:

The Confederate army authorities at Jackson, in anticipation of the occupation of the place by Federal troops, destroyed their regular storehouses by fire, and where they had stores in the center of the town, they set the example of throwing their stores in the street and inviting the people in the street to help themselves. Some of the merchants, rather than have the Yankees get their goods, followed the example of the Confederate military officers. In the mean time a large portion of the population of the town were leaving, and had left; so that before the Federal troops reached the town the straggling rebel soldiers and the lawless people of the town were actually sacking the town.

When the Federal soldiers arrived, many of them joined the citizens, and the general pilfering and destruction continued. Large quantities of goods of all kinds were thrown into the street and destroyed. I was informed by a reliable witness that he passed by Bloom's store and saw it full of soldiers. His statement is in this language:

"Bloom's store was sacked by soldiers. I passed by and saw it full of soldiers; the negroes would take things that the soldiers would give them—it was perfect disorder and confusion; all sorts of people were trying to get everything they could. They were pilfering; they virtually sacked the town. If there were any officers present at Bloom's store, they did not take any command; it was not a crowd which was commanded by any one."

Another witness testifies:

"His (Bloom's) store was sacked by soldiers. I passed by and saw it full of soldiers. The negroes would take things that the soldiers would give them; it was perfect disdisorder and confusion; all sorts of people were trying to get all, everything they could; they were pilfering; they virtually sacked the town."

Another witness, J. W. Brown, jr., testifies that he at the time of the capture of Jackson was 18 years of age. He went out with a volunteer company of young men to help defend the town against the Federals. When the Confederate forces retreated he came back with the rest into town; the men of his company threw away their arms and assumed the garb of citizens. They got into town before any Federal forces did, and before the Confederate forces left. He saw the Confederate officers set the example of throwing their stores into the streets, and inviting the public to take such as they did not throw out, except as to the government warehouses which were by themselves; those they burned. He thinks some of the merchants did the same thing.

Many of the stores were being pillaged by the Confederate soldiers, army followers, and negroes, before the Federals reached the place; and after the Federals did come, a large share of the pilfering was done by negroes and others who were not connected with the Federal Army.

It appears that goods were taken from the claimant's store, but it does not appear that they were taken by the order of any competent military authority. The weight of the testimony goes to show that they were taken by the rabble, without the authority or direction of any Federal officer. Nor does it appear that the goods taken were used by the Army, or for its benefit.

Your committee are of the opinion that the claim of petitioner ought to be disallowed on two grounds:

First. His loyalty is not satisfactorily established.

Second. The goods were not taken by order of any competent military authority, nor used by the Army, nor for its benefit.

Your committee, therefore, recommend that the claim be disallowed, and the committee be discharged from its further consideration.

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45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 181.

IN THE SENATE OF THE UNITED STATES.

MARCH 22, 1878.—Ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill H. R. 142.]

The Committee on Pensions, to whom was referred the petition of Dr. George McCoy, acting assistant surgeon of the United States Army, praying that a pension be allowed him, submits the following report:

It appears that petitioner contracted for service as an acting assistant surgeon in the United States Army April 10, 1862, and was on duty at Emory Hospital, Washington, D. C., until August, 1862, then at Lincoln Hospital, District of Columbia, until November, 25, 1862, when his contract expired. He contracted again, for similar service, in September, 1864, and his contract terminated in August, 1865.

Petitioner alleges that he was not provided with quarters, but allowed the privilege of living at home, and that on his way from his residence on Second street, southeast, to the hospital, in his buggy, a collision with a street-railroad car occurred, by which he was thrown from his carriage and seriously and permanently injured in his spine. The petitioner submitted a claim for a pension before the Commissioner on the grounds herein stated, and his application was rejected on the alleged ground that his disability, by reason of the injury received while on his way from his residence to the hospital, was not incurred in the line of duty as an acting surgeon, as contemplated in section 4693, Revised Statutes. Petitioner now seeks relief by special act of Congress. There is no dispute as to the relations of the claimant to the military service, nor as to the serious and permanent character of the injury received; but it is questionable whether, under a literal and strict construction of the section of the law under which relief is sought, the claim of petitioner could have been allowed by the Commissioner of Pensions. The equities, however, are unquestionably with claimant, and it is believed that, on its merits, the claim may be legitimately considered and allowed by Congress.

Favorable action on the prayer of petitioner is recommended.

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45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 182.

IN THE SENATE OF THE UNITED STATES.

MARCH 22, 1878.—Ordered to be printed.

Mr. HOAR, from the Committee on Privileges and Elections, submitted the following

REPORT:

The Committee on Privileges and Elections, to whom was referred Senate resolution to pay John Ray and William L. McMillan compensation and mileage, report as follows:

The full term of William P. Kellogg, Senator from Louisiana, expired March 3, 1873. He resigned January 13, 1873.

At the last-named date there were two bodies in Louisiana claiming to be the legal legislatures of that State. One of these bodies elected John Ray to fill the unexpired term; the other elected William L. McMillan. Their respective credentials in due form were presented to the Senate on the 22d day of January, 1873. Those of John Ray were certified to by William P. Kellogg, governor; those of William L. McMillan were certified to by John McEnery. Both sets of credentials were, on the day of their presentation to the Senate, referred to the Committee on Privileges and Elections.

On the 20th of February, 1873, the Committee on Privileges and Elections reported—

1. That there is no State government at present existing in the State of Louisiana.

2. That neither John Ray nor W. L. McMillan is entitled to a seat in the Senate, neither having been elected by the legislature of the State of Louisiana.

The first proposition was submitted by the committee to the Senate by virtue of a resolution passed January 16, 1873, in the following terms: "*Resolved*, That the Committee on Privileges and Elections be instructed to inquire and report to the Senate whether there is a legal State government in Louisiana, and how and by whom it was constituted." As part of the committee's report of February 20, 1873, a bill was submitted ordering an election in Louisiana. This measure was considered at great length by the Senate, and was rejected February 27, 1873. A motion to reconsider was laid on the table March 1, 1873.

No decision was ever made by the Senate of the question whether there was or was not, at the time specified, a legal State government in Louisiana, but the Senate rejected the bill ordering a new election to be held in Louisiana.

The second proposition submitted by the committee, that neither Ray nor McMillan were entitled to a seat in the Senate, was never acted upon by the Senate, as the term for which they claimed to be elected expired without the question having been considered.

Throughout the investigation made by the Committee of Privileges

and Elections, by order of the Senate, of the affairs of the State of Louisiana, both Ray and McMillan were in constant attendance, aiding the committee by their knowledge of the case and by their testimony in the discharge of the duty imposed upon it.

In the Forty-third Congress a resolution that Ray and McMillan be paid as Senators for the unexpired term to which they were elected was referred to the Committee to Audit and Control the Contingent Expenses of the Senate. Mr. Carpenter, of Wisconsin, who made the report on the Louisiana case from the Committee of Privileges and Elections, was chairman of the Committee on Contingent Expenses. He submitted the following report upon the resolution giving compensation:

Owing to the fact that in the State of Louisiana, in 1872 and 1873, there were two bodies claiming to be the legislature of that State, one known as the McEnery and the other as the Kellogg legislature, John Ray and William L. McMillan each claimed the seat made vacant in the Senate by the resignation of Hon. William P. Kellogg, and appeared and presented their credentials to the Senate, and attended before the Committee on Privileges and Elections, charged with the investigation of their claims. The committee reported against seating either of them, but both had incurred expenses in the prosecution of their claims.

By analogy to the precedents of the Senate, your committee are of opinion that both Ray and McMillan would be entitled to the salary of a Senator from the time of their election until the disposition of their claims respectively by the Senate; but regarding this precedent as vicious, your committee recommend the adoption of the following resolution:

Resolved, That the actual expenses necessarily incurred by John Ray and William L. McMillan, claimants to a seat in the Senate from the State of Louisiana, in the Forty-second Congress, in presenting their respective claims to a seat in the Senate, be paid out of the contingent fund of the Senate; which expenses shall be presented itemized and verified by the oath of the said Ray and McMillan respectively, and the amounts shall be audited by the Committee to Audit and Control the Contingent Expenses of the Senate.

No action was ever had by the Senate upon this recommendation; it was not made until eighteen months after the respective credentials were presented. The claimants to the seat could not have been expected to preserve an account of items of their expenditure, nor could they have anticipated that a proposition would be submitted so entirely at variance with the idea of compensation attending Senatorial service, and so contrary to the uniform practice of the Senate.

The chairman of the Committee on Contingent Expenses of the Forty-third Congress was entirely familiar with the claims of Ray and McMillan. He made the report from that committee that they were entitled to compensation, but he proposed an innovation upon the precedents of the Senate in the manner of that compensation. The proposition to change the usages of the Senate did not meet with favor, and by the action had upon the cases of Mr. Pinchback, of Louisiana, and of Mr. Sykes, of Alabama, occurring and passed upon subsequently, the Senate confirmed its uninterrupted usage. In acting upon the two last-cited cases the Senate stipulated, "That in no case shall any pay be allowed to a Senator to begin earlier than the date of his election or appointment."

Upon the foregoing facts we are of opinion that each of the contestants was justified in making the contest for the seat. If the usage of the Senate in such cases be followed, each should be allowed the sum of $1,334.67, being the amount of compensation and mileage from the date of his alleged election to the end of the term. But we do not recommend such an allowance, but prefer to allow to each claimant only his actual and reasonable expenses incurred in making the contest.

Under the circumstances, however, it would be clearly unjust to re-

quire of the claimants an itemized account of such expenses. They allege that they kept no such account, relying on the unbroken usage of the Senate to allow salary and not compensation, and that they cannot now furnish either items or vouchers. It appears, however, that each of these gentlemen traveled from New Orleans to Washington, remained here more than a month, laying aside all other business, and wholly devoting himself to this contest. The question required an elaborate and thorough examination of the history of the Louisiana election and the claims of the rival State governments. In this examination the contestants acted as counsel, and rendered a service in which, if they had employed other suitable counsel, they might properly pay a large fee, which should be reimbursed by the Senate.

On the whole, we recommend the payment to each of the sum of $1,000, which is considerably less than the salary and mileage, and is a moderate estimate of the actual cost and expense incurred by each.

We therefore recommend that the resolution be amended by substituting therefor the following, and that, so amended, the same be adopted: Strike out all after the words "contingent fund of the Senate," and insert, "the sum of one thousand dollars each to John Ray and William L. McMillan, as full compensation for their expenses as contestants for a seat in the Senate for the unexpired term of William P. Kellogg in 1873."

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 183.

IN THE SENATE OF THE UNITED STATES.

MARCH 22, 1878.—Ordered to be printed.

Mr. CONOVER, from the Committee on Naval Affairs, submitted the following

REPORT:

[To accompany bill S. 292.]

The Committee on Naval Affairs, in the matter of Howard D. Potts, assistant engineer of the United States Navy, having considered the facts submitted by the claimant for relief, is of the opinion that the naval retiring board which placed Mr. Potts upon furlough-pay in 1874 had every opportunity to impartially and fairly examine into the merits of the claim, and to justly decide upon all the facts bearing on the case, and the committee is unable to see any good and sufficient reason to favor a reversal of the decision of that board. The committee therefore report adversely.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 184.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

Mr. WALLACE, from the Committee on Foreign Relations, submitted the following

REPORT:

[To accompany bill H. R. 923.]

The Committee on Foreign Affairs report back with amendments House bill No. 923, supplementary to an act entitled "An act to carry into effect the convention between the United States and China, concluded on the 8th day of November, 1858, at Shanghai," approved March 3, 1859, and to give the Court of Claims jurisdiction in certain cases, and adopt the report of the House committee, which is as follows:

The committee hereby recommend the passage of the bill annexed to this report, giving the Court of Claims jurisdiction in the case, the facts of which appear to be as follows:

The bark Caldera, under the command of Mathew Rooney, an American citizen, being laden with a cargo belonging to American merchants, sailed from the port of Hong-Kong on the 5th day of October, 1854, bound to the port of San Francisco; and having been obliged to seek shelter from a storm, in the port of Keolan, on the Chinese coast, was, while at anchor there, and the crew employed at the pumps to keep the vessel free of water, boarded by armed bands of Chinese, who drove the men from the pumps, took possession of the vessel, and, after plundering her of all the cargo except granite in the lower hold, burned her and she became a total loss.

The petitioning insurance companies paid insurances to the amount of $72,512, being a total loss of the whole sum insured, besides a considerable sum in addition, expended in an unsuccessful effort to recover the property.

The petitioners took all the necessary steps to establish a valid claim on the Chinese Government for the amount of the loss, and Mr. Marcy, then Secretary of State, in a dispatch to Dr. Parker, fully recognized the justice of the claim, and directed its prosecution before the Chinese Government.

In 1858, Mr. Reed, the then American minister, made a convention with the Chinese Government, securing idemnity for this as well as other claims, and about $700,000 was paid by the Chinese Government, a large portion of which is still held by the State Department, awaiting the disposition of Congress.

Mr. Reed recommended that the claim of the Caldera should be adjudicated at home, because the evidence could be there most easily produced. Meanwhile, under an act of Congress, passed in 1859, commissioners were appointed to pass upon all claims upon this Chinese indemnity fund. These commissioners held their sessions at Macao, in China, and to them the papers in the Caldera case were forwarded by Mr. Cass, then Secretary of State. The claim was duly filed with the commissioners, who made a deduction therefrom of 60 per cent., on the ground of a supposed prior damage by sea-water to the cargo. This deduction appears to have been made without sufficient evidence of its justice, and under a misapprehension of the law applicable to the case, and the claimants had no opportunity of being heard upon the question.

They were told that the acceptance of the 40 per cent. allowed them would not preclude a rehearing of the case at Washington; but as the act of 1859 did not provide for an appeal from the decision of the commissioners, such a rehearing cannot be had without an act of Congress.

Your committee are satisfied, from the evidence submitted to them, that it is but just that the underwriters should be allowed to present the evidence which, if they had time or proper notice, would have been presented to the commissioners, to some competent tribunal for a final decision as to the justice of their claim. Other claims presented to the commission, and which were disallowed by it, have been reviewed and paid from this fund. The case of the Neva, which was of like character to this, was entirely rejected by the commissioners, but the claimants, by act of Congress, were allowed a rehearing before the Attorney-General, who decided that the conclusions of the commissioners were erroneous, and payment was accorded to them. Your committee are of the opinion that the Court of Claims is the tribunal by which questions of this character should be heard and determined.

Your committee also submit the fact, that this claim has been paid in full by the Chinese Government, and that the remaining 60 per cent. thereof is still held by the State Department, so that, if it should be allowed in full by the Court of Claims, no money will be taken from the Treasury.

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'TH CONGRESS, 2d Session. | SENATE. | REPORT No. 185.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

'. COCKRELL, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 281.]

e Committee on Military Affairs, to whom was referred the bill (S. 281) 'or the relief of Capt. Gaines Lawson of the United States Army, has luly considered the same and submits the following report:

This bill in substance authorizes the payment to Captain Lawson the ference between the pay of a captain of infantry and the pay he has eived as first sergeant, between April 17, and August 10, 1864.

Your committee referred the bill to the Secretary of War, and reved from him the following report:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, November 19, 1877.

IR: I have the honor to acknowledge the receipt of your reference (per J. J. Noah, k) of the 14th instant, of bill S. 281, for the relief of Capt. Gaines Lawson, late the Fourth Tennessee Volunteers, and requesting on behalf of the Committee on itary Affairs, United States Senate, to be furnished with certain specified informa- ı relative to his case.

Under the provisions of War Department General Orders No. 66 of 1861 (copy here- h), the day when mustered into the service of the United States, is fixed as the e of commission in said service, and from which the officer is entitled to pay and e respected in his position.

'irst Sergeant Gaines Lawson, Company D, Fourth Tennessee Volunteers, was dis- rged by Special Orders No. 307, Headquarters Department of the Ohio, December 864, to date November 30, 1864, to accept promotion as captain, same company and iment, and was mustered in as such, to date December 1, 1864. Subsequently (Au- t 16, 1867), upon application of Captain Lawson for amendment of muster, upon a eful investigation of the case, the muster was amended to date from August 10, 4, the earliest date a vacancy occurred for him in that grade. He was erroneously ne on the rolls, and was in command of company, as captain, from April, 1864, en it will be perceived he was not discharged as an enlisted man prior to Novem- 30, 1864, amended in orders from this office to date August 9, 1864.

esponsibility for public property attaches to any person in any grade, who receipts or is in possession of the same, but such responsibility gives neither a legal nor itable claim to increased rank under the laws and regulations governing the Army. n connection with the foregoing, attention is respectfully invited to the accompa- ng copies of letters from here to Hon. L. M. Morrill, of Military Committee, United tes Senate, dated January 13, 1873, setting forth the facts in the case, and to the imant himself, dated November 7, 1870, conveying to him the adverse decision of department under the provisions of the joint resolution of Congress, approved y 11, 1870.

'he bill is herewith returned.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

he Chairman COMMITTEE ON MILITARY AFFAIRS,
United States Senate, Washington, D. C.

The General Order No. 66 of 1861, referred to and inclosed with said report, is as follows, to wit:

[General Orders No. 66.]

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, August 26, 1861.

I. The commissioned officers of all volunteer and militia organizations, no matter whether established under the authority of a State or of the United States, *will be regarded as having been commissioned on the day when mustered into the service of the United States, and will take rank in their respective grades, will be entitled to pay, and be obeyed and respected in their several positions from that date.*

II. Hereafter no minors will be mustered into the service of the United States as volunteers without the consent of their parents or guardians.

III. Capt. Gurden Chapin, Seventh Infantry, having given proof of disloyalty, is dismissed the service of the United States, to take effect from the date of this order.

By order.

L. THOMAS,
Adjutant-General.

The letter addressed to Hon. Lot M. Morrill, referred to, is as follows, to wit:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
Washington, January 13, 1873.

SIR: I have the honor to acknowledge the receipt of your reference, on behalf of the Senate Military Committee, of Senate bill 1247, for the relief of Maj. Gaines Lawson late of the Fourth Tennessee Volunteers, accompanied by the letter of Col. T. H. Reeves (late of the same regiment) to the Hon. W. G. Brownlow, United States Senate.

In reply, I have to inform you that on August 16, 1867, Lawson applied to this office for change in his date of muster-in as captain of Company D, Fourth Tennessee Volunteers, from December 1, 1864 (as originally made), to August 10, 1864.

After a careful investigation of the case, it appearing that a vacancy existed for a captain from August 10, 1864 (caused on that date by the promotion of Captain Reeves to major), and that he rendered service as such covering the period claimed, he was accordingly recognized by Special Orders No. 433, paragraph 20, series of 1867, from this office.

On July 14, 1870, Lawson renewed his claim for pay as captain, to date from April 1, 1864, when, as no vacancy existed for him as captain prior to August 10, 1864, his claim was rejected under the joint resolution of Congress approved July 11, 1870, and the reasons given therefor, by letter from here dated November 7, 1870 (copy herewith).

It is proper to add, that under the provisions of section 20, of the act of Congress approved March 3, 1863, no officer could be appointed in a regiment reduced below the minimum allowed by law, beyond those necessary for the command of such reduced number.

Prior to August 10, 1864, the Fourth Tennessee Volunteers was greatly reduced below the minimum allowed by law, and had two field-officers. On August 10, 1864, the colonel (Stover) resigned, and T. H. Reeves, who was captain of Company D, was promoted and mustered in as major of the regiment on that date, leaving a vacancy for Lawson as captain in that company, in which grade he was accordingly mustered from that date.

The bill and letter of Colonel Reeves are herewith returned.

I am, sir, very respectfully, your obedient servant,

THOMAS M. VINCENT,
Assistant Adjutant-General.

Hon. LOT M. MORRILL,
Of Military Committee, United States Senate, Washington, D. C.

———]

[Memorandum.]

In this connection I inclose herewith copy of Ex. Dox. 54, 41st Congress, 3d session, which covers the subject of musters in all its bearings, and which is applicable to the case of Lawson.

THOMAS M. VINCENT,
Assistant Adjutant-General.

Official copy.

THOMAS M. VINCENT,
Assistant Adjutant-General.

The letter to Captain Lawson referred to is as follows, to wit:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, November 7, 1870.

SIR: Referring to your claim for pay, from April 1, 1864, to August 10, 1864, as captain of Fourth Regiment Tennessee Volunteers, under the "Joint resolution, approved July 11, 1870, amendatory of 'joint resolution for the relief of certain officers of the Army,' approved July 26, 1866," you are respectfully informed that it has been rejected.

Section 3 of said joint resolution is as follows:

"That this resolution shall not be construed to apply to cases in which, under the laws and Army regulations existing at the time, there could have been no lawful muster into service even after the actual receipt of the commission."

"The laws and Army regulations existing at the time," under which "there could have been no lawful muster into service," are in your case as follows:

I. The act of Congress approved July 22, 1861, authorizing the employment of volunteers.

That act made binding upon the volunteers the "rules and regulations governing the Army of the United States," and fixed the number of officers to a company.

There was no vacancy for you until August 10, 1864, the date Capt. Thomas H. Reeves was mustered in as major.

Under the law two officers could not be recognized during the same period in the same grade.

The muster-in from August 10, 1864, in your case recognized you from the date you entered upon duty under your commission with a proper command, *i. e.*, in a company where a vacancy existed.

Your commission is herewith returned.

Very respectfully, your obedient servant,

E. D. TOWNSEND,
Adjutant-General.

Capt. GAINES LAWSON,
Twenty-fifth Infantry, U. S. A., Fort Duncan, Texas.

Official copy.

THOMAS M. VINCENT,
Assistant Adjutant-General.

The joint resolution of July 26, 1866, is as follows, to wit:

[No. 87.]

JOINT RESOLUTION for the relief of certain officers of the Army.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in every case in which a commissioned officer actually entered on duty as such commissioned officer, but by reason of being killed in battle, captured by the enemy, or other cause beyond his control, and without fault or neglect of his own, was not mustered within a period of not less than thirty days, the Pay Department shall allow to such officer full pay and emoluments of his rank from the date on which such officer actually entered on such duty as aforesaid, deducting from the amount paid in accordance with this resolution all pay actually received by such officer for such period.

SEC. 2. *And be it further resolved,* That the heirs or legal representatives of any officer whose muster into service has been or shall be amended hereby shall be entitled to receive the arrears of pay due such officer, or the pension provided by law for the grade into which such officer is mustered under the provisions of the first section of this resolution.

Approved July 26, 1866.

[See 14 Statutes, page 368.]

The joint resolution amendatory thereof is as follows, to wit:

(No. 102.) JOINT RESOLUTION amendatory of "Joint resolution for the relief of certain officers of the Army," approved July twenty-six, eighteen hundred and sixty-six.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That joint resolution entitled "Joint resolution for the relief of certain officers of the Army," approved July twenty-six, eighteen hundred and sixty-six, shall be so construed and amended that in all cases arising under the same the person to whom the commission shall have issued shall be considered as commissioned to the grade named *therein from* the date when the commission was issued by compe-

tent authority, and entitled to all pay and emoluments as if actually mustered at that date: *Provided*, That at the time of the issuing of the same he was performing the duties of the grade to which he was commissioned, or from such time after the issuing of his commission as he may have actually entered upon such duties.

SEC. 2. *And be it further resolved*, That persons held as prisoners of war by the enemy, or who may have been in hospital by reason of wounds or disability at the time of the issuing of their commissions, shall be entitled to the same pay, emoluments, and benefits under this resolution as if actually performing the duties of the grade to which they were commissioned.

SEC. 3. *And be it further resolved*, That this resolution shall not be construed to apply to cases in which under the laws and Army regulations existing at the time there could have been no lawful muster into service, even after the actual receipt of the commission.

Approved July 11, 1870.

In this case of Captain Lawson, he was discharged as first sergeant December 3, 1864, to accept the appointment of captain, to date November 30, 1864, and was mustered in as captain to date December 1, 1864. There was no vacancy in the office of captain prior to August 10, 1864, up to which time Capt. Thomas H. Reeves was the captain, receiving the pay, and on which day Reeves was mustered in as major.

Since the passage of the resolution of July 26, 1866, Captain Lawson applied for and obtained pay from August 10, 1864, to December 1, 1864.

Your committee cannot see any grounds upon which Captain Lawson can justly claim any pay as captain prior to August 10, 1864, and from that date he has already been fully paid.

Your committee therefore recommend that said bill be indefinitely postponed.

O

I CONGRESS, } SENATE. { REPORT
:d Session. } { No. 186.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 644.]

Committee on Military Affairs, to whom was referred the accompany-g bill (S. 644) for the relief of Dwight W. Hakes, respectfully submit e following report:

ıe said Dwight W. Hakes was, on the 18th day of June, 1863, in military service of the United States as first lieutenant and reg-ıtal quartermaster of the Eighteenth Regiment Connecticut Volun-ɜ. On said date he was taken prisoner by the Confederate forces, ng on his person certain vouchers for subsistence stores issued by which vouchers were then and there lost by reason of such cap-. Lieutenant Hakes remained a prisoner for about twenty months. ıis return to duty he found charged to him the sum of $145.46, on unt, as he alleges, of supplies issued by him and covered by the hers so as aforesaid lost. As the vouchers were never recovered, as, by lapse of time, other conclusive proofs could not be furnished ıieutenant Hakes to show the proper issue of the supplies covered ıis charge, he has never been able to settle his accounts and obtain certificate of non-indebtedness necessary to enable him to draw his The Commissary-General of Subsistence, referring to this bill, : "From the affidavit of Lieutenant Hakes, I am of the opinion it would be a matter of justice to pass the accompanying bill (S. Forty-fifth Congress, second session." The Secretary of War also mmends the passage of the bill.

ıe affidavit of Lieutenant Hakes, with the corroborating circum-ces, seems to show to a reasonable certainty the loss of the vouchers ioned. This, coupled with the recommendation of the Commissary-ral and the Secretary of War, seems to be sufficient to warrant passage of the bill, which the committee, therefore, recommend.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 187.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 713.]

The Committee on Military Affairs, to whom was referred the accompanying bill (S. 713) for the relief of Martin Clark, have had the same under consideration, and respectfully submit the following report:

Martin Clark was mustered into the military service of the United States May 20, 1861, as first sergeant Company G, Twenty-first New York Volunteers, in which position he served until February 17, 1863, when he was mustered as second lieutenant, same regiment.

On the 28th of February, 1863 (while Lieutenant Clark was on leave, spending some days with a friend in Washington), a letter signed "John H. Burton, Census Office, Interior Department," was received by the Secretary of War, in which Lieutenant Clark was charged with having, "in the course of a bitter tirade against the government, made the declaration that 'he would as soon live under the government of Jeff. Davis as that of Abe Lincoln;'" and also that "this is the second time within the month that Lieutenant Clark has used the most bitter language against the government, and on the conduct of the war."

For this Lieutenant Clark was, four days later, summarily dismissed the service, by Special Orders War Department 99, paragraph 33. This action was without notice to Lieutenant Clark, and entirely *ex parte*.

The time of the Twenty-first New York being then nearly expired, Lieutenant Clark remained in Washington, and went thence to Buffalo with the regiment. Shortly after, he commenced, actively, the work of recruiting for the Twelfth New York Cavalry, in which regiment he was, on the 18th day of September, 1863, mustered as second lieutenant, and, on the 20th of November following, as first lieutenant of the same regiment. April 12, 1864, Sergt. John W. Doney, who had then just been put under arrest by Lieutenant Clark, for insubordination, wrote to the Secretary of War that First Lieut. Martin Clark, Twelfth New York Cavalry Volunteers, was the same person who, as second lieutenant Twenty-first New York Volunteers, had been dismissed the service. This letter was forwarded to the commanding officer of Lieutenant Clark's regiment, Col. John W. Savage, and was returned by him with recommendations highly eulogistic of Clark's bravery and loyalty. One paragraph from the same is as follows:

> Lieutenant Clark is one of my best officers. I have not the slightest doubt of his entire loyalty, patriotism, and respect for the President. He is brave, energetic, prompt, trustworthy, and competent. I have seen him in camp, on the drill-ground, on picket, and under fire, and know that I am not mistaken in his character, and that the service would lose a most valuable officer if he is again dismissed.

It appears, however, that Clark's musters, both as second and first lieutenant, were revoked by paragraph 35, Special Orders 179, War Department, May 17, 1864, for the reason that no permission had been granted for his return to the service as a commissioned officer. He was relieved from duty under the order June 30, 1864. Numerous applications have been made to the War Department for the revocation of the order complained of, but without avail, and an appeal is now, for the first time, made to Congress.

The expressions attributed to Lieutenant Clark, if true, were quite reprehensible, and, if the expression of a deliberate judgment or sentiment, would have justified the summary dismissal which followed their utterance. But the committee do not believe this was the case. Lieutenant Clark at the time was stopping with a friend in Washington; the person who informed on him was a fellow-boarder, and whatever was said was in private conversation and most likely the result of momentary indiscretion. Clark denies, under oath, that he ever uttered any disloyal sentiments, and his loyalty is testified to by his commanding officer and by many persons who knew him well in New York, before and after his enlistment. His successive enlistments and promotions, his active efforts in recruiting, his faithful and conspicuous military service, are wholly inconsistent with any imputation upon his loyalty.

Clark's own statement is to the effect that he was indignant at not being promptly paid, by reason of which his family had come to want, and he had been compelled to go in debt for a uniform made necessary by his recent promotion, and that whatever he said was the result of anger on that account. It is altogether likely that the person reporting the language used exaggerated it by reason of having been sorely offended, or desired to commend himself to his superiors by the exercise of superserviceable zeal—a quality which would have better become some one in the military service of the government. If the dismissal had been the result of the judgment of a court-martial, after due trial of the accused, the reasons for not interfering to relieve against it would be conclusive; but the unsworn and uncorroborated statement of an informer could hardly be permitted to outweigh the patriotic service rendered by Lieutenant Clark.

The committee have received from Colonel Savage, formerly of the Twelfth New York Cavalry, now judge of one of the circuit courts of Nebraska, a letter, from which the following extract is taken, showing the gallant service rendered by Lieutenant Clark after the issuance of the order revoking his musters in said regiment:

> A few weeks after this communication [letter of Sergeant Doney] was transmitted (Lieutenant Clark being on picket duty at the outposts near New Berne, at a place called Deep Gully), an attack was made upon him and his guard, consisting of some twenty men, by a rebel force of not less than twenty thousand. Lieutenant Clark so skillfully managed his men and retreated with such shrewdness and bravery that he was some two hours in falling back a distance of two miles to a point where such dispositions had been made to receive the enemy that after some four or five hours' fighting they withdrew, crossed the Trent River, and the next day attacked New Berne from the south instead of the west as at first intended. I think that had it not been for the coolness and bravery of Lieutenant Clark on that occasion a serious disaster might have resulted. While he was thus handling his men and exciting the admiration of all who saw him, I received the order dismissing him. No case came under my observation during the war which so strongly enlisted my feelings of sympathy, or which seemed such cruel injustice. I hope that at last justice will be done him.

There is no room for doubt that Lieutenant Clark was thoroughly loyal, and that the order dismissing him was wholly unwarranted.

Clark swears that he did not know that the effect of the order dismissing him was to disqualify him from holding office in the military service, and that Secretary Stanton, in reply to his complaint of injustice done, in an interview held immediately after his dismissal, said in substance, "Well, you can enter the service again if you wish."

Even if the subsequent enlistment was with full knowledge that it was in violation of law, the offense was not a very grave one under the circumstances, and was fully atoned for by the gallant service thereafter rendered. The government needed such soldiers as Lieutenant Clark proved to be, and was glad to get them.

The committee are unhesitatingly of the opinion that the facts of the case fully warrant the passage of a bill relieving Lieutenant Clark from the effects of the order of dismissal and that revoking his musters as second and first lieutenant, granting him an honorable discharge, and providing for the payment of the full amount of pay and emoluments due him by reason of service actually rendered, and therefore recommend the passage of the accompanying bill, with an amendment providing for the honorable discharge of Lieutenant Clark as of June 30, 1864.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 188.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 801.]

The Committee on Public Lands, to whom was referred the bill (S. 801) to amend section 2403 of the Revised Statutes, have had the same under consideration, and beg leave to submit the following report:

By section 2401, Revised Statutes, settlers on unsurveyed agricultural lands may procure immediate survey of the township in which they are located by depositing in a proper United States depository, to the credit of the United States, a sum sufficient to pay for such survey, with expenses incident thereto. By section 2403, as now existing, the sum so deposited goes in part payment of the lands of the depositors situated in the township the surveying of which is paid out of such deposits. This section refers to section 2407 as authorizing the making of deposits, instead of 2401, which error is corrected in the substitute hereinafter mentioned. The design of the bill under consideration is to permit such certificates of deposit to be assigned and used in paying for any public lands entered under the homestead or pre-emption laws, which seems entirely proper, as the depositor has, by advancing the money, merely anticipated a legitimate public expenditure which the government would sooner or later be required to make; and there would seem to be no reason why the money deposited for such a purpose should not be used as provided by the bill. For the purpose, however, of correcting the error already existing in the law above mentioned, the committee have drawn a substitute for the bill, which they report herewith, and recommend its passage.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 189.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

Mr. PLUMB, from the Committee on Public Lands, submitted the following

REPORT:

[To accompany bill S. 859.]

The Committee on Public Lands, to whom was referred the accompanying bill (S. 859) for the relief of Charles L. Davenport, have had the same under consideration, and respectfully submit the following report:

The facts of this case, in brief, are: In July, 1876, Mr. Charles L. Davenport filed his declaratory statement of intention to pre-empt the northeast quarter of section 10, township 27, range 4 west, in Sedgwick County, Kansas. On account of sickness in his family he was prevented for about two months from making the necessary improvements, and the land was settled upon by another person. Doubting his ability to successfully contest with this person, Mr. Davenport, acting under advice, concluded to have his first filing cancelled, and pre-empt another tract of land. He therefore went to the land-office at Wichita, gave his filing-paper to a clerk, telling him what he desired. Shortly after, he filed in the same office his declaratory statement (No. 13659) of intention to pre-empt the southeast quarter of section 5, township 34 south, range 2 west, in Sumner County, Kansas, accompanying the filing by settlement and improvement of the land, on which he has since made lasting and valuable improvements, exhausting thereby all available means.

Recently, Mr. Davenport sought to complete his entry, and then, for the first time, ascertained that he could not do so on account of his previous filing. He at once made application to the Commissioner of the General Land Office to have the first filing cancelled, but the Commissioner, having no power under the law, of course, refused.

Section 2261 of the Revised Statutes, which provides as follows, "* * * * nor where a party has filed his declaration of intention to claim the benefits of such provisions" (pre-emption right) "for one tract of land, shall he file, at any future time, a second declaration for another tract," was designed to guard against speculation in the public lands. It was aimed at a practice which prevailed of filing upon lands and holding them until they became valuable, and then selling and relinquishing and going on to another tract to repeat the operation, and so on. In this case, it is apparent that no such intention existed; that Mr. Davenport was prevented by sickness in his family from fulfilling the conditions of his first entry; that he was ignorant of the law, and was misled by the failure of the clerk at the land-office to inform him when he left his filing for cancellation, and by the acceptance of his last filing

by the register of the land-office, whereby he was induced to improve the land covered by his new filing, and expend thereon all his means.

Inasmuch as Mr. Davenport acted in good faith, had no design of speculating in the public lands, was misled by the action or non-action of the officers of the local land-office, and as the restoration of his right to pre-emption entry will wrong neither the government nor any private individual, the committee recommend the passage of the accompanying bill.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 190.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

[r. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 741.]

'he Committee on Military Affairs, to whom was referred the case of Capt. C. H. McNally, a retired officer of the United States Army, who asks Congress to have his rank on the retired list increased, report:

That said request should not be granted. A reference to the accom-
ınying papers from the War Department shows that under no proper
ıderstanding of the case can McNally be retired with a higher rank
ıan that now held by him. At the time he was wounded he was a first-
eutenant; he was brevetted captain from July 12, 1861, the same date
pon which he received the wounds and injuries which disabled him
ıd caused his retirement on December 24, 1866. He was promoted
ıptain September 28, 1861, and brevet major March 13, 1865; and
rved as colonel of volunteers from March 31, to November 29, 1865.
e was retired under section 32 of the act of July 28, 1866 (vide Sta-
ıtes at Large, vol, 14, chap. 299, page 337), which act authorized the
:tirement of officers upon the full rank of the command held by them
hen the disabling wounds were received.

His own statement to the Retiring Board, as will be seen, goes to
ıow that he was simply in command of his company on the day he was
ounded.

Section 32 was repealed by the act of June 10, 1872 (section 1254 of
ıe Revised Statutes).

Captain McNally has before applied for this increased rank on the
:tired list to the President and the War Department; but his appli-
ıtion has been denied upon the grounds above stated, and also that
ıe act of June 10, 1872, was regarded as a bar to any action by the
resident.

Had Captain McNally been actually in command of two companies
' cavalry at the time he was wounded, as he now claims, which claim
partially sustained by the statements, accompanying these papers,
ade by two officers of the Army, he still could not be recommended by
ıis committee for an advanced position on the retired list under the
ıles adopted by it, unless he could demonstrate that his wounds were
' as serious and disabling a nature as those mentioned as exceptions
the so-called "Crawford bill."

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 191.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 260.]

The Committee on Military Affairs, to whom was referred the bill (S. 260) for the relief of H. A. Myers, have had the same under consideration, and submit the following report:

I suggest that the bill for the relief of H. A. Myers be recommended favorably, and refer for my reasons to the report of the Adjutant-General, attached hereto, which I desire to make a part of my report:

ADJUTANT-GENERAL'S OFFICE,
March 15, 1878.

Respectfully returned to the Secretary of War.

It appears from the records of this office that Hiram A. Myers was enrolled September 17, 1862, and mustered into service from that date as private Company D, Eleventh Kansas Cavalry, and served honorably from date of enrollment to July 7, 1864. On the muster-out roll of company, dated September 13, 1865, he is reported as follows:

"This man enlisted in good faith, served faithfully as a soldier from enlistment to July 7, 1864; his old enlistment-papers were lost, new ones were made out, and upon examination he was rejected by T. Sinks, surgeon board examiners, district Northern Kansas, July 7, 1864, when he was dropped from company rolls.

"There is due him for use and risk of horse and equipments from date of last payment to June 20, 1864, and he is indebted to the United States for horse-equipments $31. He was last paid by Major Bowen to February 29, 1864."

There would appear to be no objection to this bill becoming a law.

E. D. TOWNSEND,
Adjutant-General.

It is clear, in view of this report, that the bill should pass.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 192.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

Mr. BURNSIDE, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 334.]

The Committee on Military Affairs, to whom was referred the bill (S. 334) for the relief of William Bowlin, have had the same under consideration, and submit the following report:

In the case of Capt. William Bowlin, of the Second Arkansas Cavalry, who asks for pay and emoluments from the 10th of October, 1863, the date upon which he claims to have entered upon his duties as captain to the 8th of March, 1864, the date of his muster-in, there is the evidence of the claimant and of two private soldiers of the company that he, Captain Bowlin, performed the duties of captain during the period for which he claims pay; but the evidence on file in the War Department shows that the company was not completed for muster till January 22, 1864, and was not mustered in till January 29, 1864, and that although Captain Bowlin may have been acting as captain during the enlistment, he was only elected to the position on the 13th of February, 1864, under an order issued by General Sanborn. After the election General Rosecrans recommended his appointment by the War Department, and authority was given for his muster in on the 27th of February, 1864. Under this authority he was mustered in on the 8th of March, 1864.

The committee therefore recommend the passage of the bill with an amendment in accordance with the facts as above stated.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 193.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 454.]

The Committee on Pensions, to whom was referred the bill (S. 454) granting a pension to Stephen C. Herndon, of Ozark, Mo., have had the same under consideration, and report:

It appears by the petition of the claimant that he was appointed a deputy marshal for the counties of Ozark and Douglas, Mo., December 1, 1863; that he was relieved from duty June 1, 1864, and that shortly thereafter, while returning to his home, he was attacked by a party of Confederate troops and seriously wounded, losing by amputation—rendered necessary by said wounds—his left arm.

It appears further that Colonel Richardson, the officer who discharged or relieved claimant from service as deputy marshal, verbally directed him to hold himself in readiness, if his services, which were then not needed, should thereafter become necessary.

On this state of facts the claimant filed his application for pension, and his claim was rejected by the Commissioner of Pensions because the wounds had been received after his discharge from service.

The case is one of hardship, but, in the opinion of the committee, does not possess the merits that would entitle the claimant to the relief sought.

The committee, therefore, ask to be discharged from further consideration of the petition.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 194.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

Mr. WALLACE, from the Committee on Finance, submitted the following

REPORT:

[To accompany bill S. 55.]

John W. Douglass was collector of the nineteenth internal-revenue district of Pennsylvania from 1862 to April, 1869, having his main office in the city of Erie. In the fall of 1863 he took into his employ, first as clerk and afterward as deputy collector, one Julius Degmier, who seems to have been an educated man, well connected socially, and had held important educational positions. He was recommended to Mr. Douglass's confidence and employment by some of the best citizens of that community.

Degmier remained in the collector's office until the latter part of 1865, about which time he had been detected in embezzling government money and stamps. Upon being charged with this, he acknowledged the crime, and gave a judgment-bond and mortgage, in connection with his wife, upon improved real estate in the city of Erie. The bond and mortgage were for the sum of $15,000, and covered all of his property. In June, 1867, the mortgage was foreclosed and judgment rendered thereon for $16,578 and costs of suit.

In the following month of August the property covered by the mortgage was sold at sheriff's sale and bid in by Douglass for the sum of $11,675. It was subsequently sold to Curtis for $14,000, the net amount realized, after deducting costs and attorney-fees, being $13,037.85. After giving this mortgage to the full value of the property owned by himself and wife, Degmier and his friends asked for time to pay up the sum embezzled, and to save, if possible, him and his family from disgrace. After consulting with his counsel and leading sureties, Mr Douglass allowed him time to make the effort to raise the money to cover the deficit. This involved two trips to Germany and back. Upon his return from the second trip, he was arrested and indicted, at the instance of Mr. Douglass, in the United States district court for the western district of Pennsylvania. On the trial of the case the prisoner escaped under an erroneous ruling of the judge on the statute of limitations. The total loss by the embezzlement of money and stamps is shown by the testimony to have been $19,903; deduct from this sum the amount realized from the sale of the Degmier property, $13,037.85, and there remains a balance of $6,865,67, which has been paid to the government by Mr. Douglass, with the exception of $916.99, for which he is still liable.

A bill for the relief of Mr. Douglass for the amount now asked was passed by the House of Representatives at the second session of the Forty-third Congress (H. R. 4668). This bill came to the Senate and was referred to the Committee on Claims February 20, 1875. The action

by that committee of "indefinite postponement" was based upon the adverse report of Mr. Pratt, to whom the case had been referred for examination.

The report is No. 668 of Senate Committee on Claims of the second session of the Forty-third Congress.

Mr. Douglas complains that the report did him great injustice. The objections urged in that report and which controlled the action of the committee are suggested in the following questions of fact:

1st. Was Mr. Douglass sufficiently careful, prudent, and diligent in not requiring security from Degmier at first?

The evidence shows that Degmier's employment at first was exclusively clerical, and did not involve the handling of money at all. His work was chiefly done at his residence, which, at the time, was adjoining the collector's office. Such employment would not, of course, require a bond. When Degmier was made a deputy, subsequently, he was not given power to receive money, but the evidence shows that it was solely to authorize him to administer oaths at such times as the collector or chief deputy might be temporarily out of the office. This was done for the convenience of the tax-payers and at their special request.

The testimony of Mr. Rogers, the present first deputy commissioner internal revenue, who was the chief deputy at Erie during Mr. Douglass's entire collectorship (with the exception of some 15 months), from 1862 to 1869, which has been filed since the former report, shows that the bookkeeper and clerks did not give bonds, but only the deputies charged with collections of money; and that when he succeeded Mr. Douglass as collector, only the main deputies were bonded, who were required to collect moneys outside of the office.

There was no neglect on the part of Mr. Douglass in not taking a bond under these circumstances. The proof shows that he was vigilant and active after the embezzlement was discovered, and secured to the government the full value of Degmier and wife's property. If the failure to take a bond at first worked no harm to the government, the security finally obtained from Degmier and wife, being larger than any bond taken from the other deputies, except that of the deputy-in-chief (Mr. Rogers), it would be unfair that the government should use that fact to enforce a further misfortune upon the claimant.

Another question is, Ought the embezzlement to have been discovered earlier?

The evidence shows that a competent bookkeeper was employed by Mr. Douglass, and that the discrepancy was noticed by him within a short time after its commencement, but he thought it was simply an error of his own or complication growing out of the payment of taxes in advance of their assessment by the assessor. The evidence also shows that Mr. Douglass, with the bookkeeper, kept up the search for the discrepancy constantly at leisure hours, and that when Mr. Rogers returned from the Army he was requested at once, by the collector, to aid in the search. The search was eluded and discovery prevented by the occasional deposit back by Degmier of moneys theretofore taken, which would bring up the cash account temporarily, and thus avoid suspicion of embezzlement.

Another reason for the delay in discovering the embezzlement was the suppression of vouchers and records, such as stubs of receipts and applications for licenses, which would prevent the money being entered on the record of daily receipts.

It seems that all of the employés were men of good reputations and *favorably* known to the community. Degmier had early announced as *a blind* that his father had died in Germany, and that he was receiving

installments of the estate. This accounted for his having more money than before and averted suspicion of anything criminal.

The remaining question is, Did the special allowances sufficiently reimburse Mr. Douglass for the loss by embezzlement.

Special allowances, it seems, are never made by the Secretary of the Treasury to aid collectors who have suffered loss by embezzlements.

They are made simply and exclusively as personal compensation for collectors and their employés, without regard to embezzlements.

The compensation awarded in this case would have been the same under the practice of the department though Degmier had embezzled twice as much as he did, or if he had never embezzled a penny. It is a question of compensation for actual service, and is kept and treated entirely distinct from the revenue account of collections. If, however, the revenue account of an officer shows a balance due the United States, then the amount due on compensation is withheld and credited on the revenue account, which is nothing more than applying the rights of set-off between the United States and her debtors. In this view of the case, which undoubtedly is the proper one, the question of "special allowance" should have no influence.

The testimony of Mr. Rogers, now furnished for the first time, with the figures he gives, shows that the statement originally furnished by Mr. Douglass, as shown on page 5 of Mr. Pratt's report, was correct, and truly represented the case then, as it does now. In conclusion, the committee report that the facts show a proper case for relief, while the legislative precedents for many years justify the same.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 195.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 161.]

The Committee on Military Affairs, to whom was referred the bill (S. 161) for the relief of Charles W. Biese, late second lieutenant Eighty-second Regiment Illinois Volunteers, respectfully submit the following report:

An examination of this case presents no sufficient reason to satisfy this committee that it should recommend the relief asked. No equity, so far as presented to the committee, takes the case out of the operation of General Orders 66, from War Department, Adjutant-General's Office, August 26, 1861, which provides (paragraph 1) that an officer "will be regarded as having been commissioned on the day when mustered into the service of the United States, and will take rank in their respective grades, will be entitled to pay, and be obeyed and respected in their several positions from that date."

Wherefore the committee report said bill and recommend that the same do not pass.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 196.

IN THE SENATE OF THE UNITED STATES.

MARCH 26, 1878.—Ordered to be printed.

Mr. MAXEY, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany bill S. 604.]

The Committee on Military Affairs, to whom was referred the bill (S. 604) for the relief of John Bowles, respectfully submit the following report:

The military history of said Bowles, late lieutenant-colonel Seventy-ninth United States Colored Troops, as furnished by the Adjutant-General under date March 8, 1876, is as follows:

John Bowles served as major Seventy-ninth United States Colored Troops from its organization (January 13, 1863), to May 2, 1863, when he was mustered in as lieutenant-colonel in the same regiment. He was dismissed December 17, 1864, "for neglect of duty in not rendering the reports required by paragraph 468 of the Army Regulations; absence without leave, and repeated disobedience of War Department orders directing him to join his regiment," but upon a review of the case was honorably discharged by special orders of June 27, 1865, as of the date of his dismissal. "He performed but little duty subsequent to his muster in as lieutenant-colonel (only two months with his regiment), but was finally paid (or is now entitled to pay) to the termination of his nominal service, that is, to the date of receipt at his station of the order of dismissal. In August, 1869, he filed a claim for pay to the date of the final order in his case (June 27, 1865), which claim was rejected as not being founded in equity. It is proper to remark that the vacancy caused by his discharge was filled April 22, 1865."

The bill referred to the committee asks that pay be allowed him from November 1, 1864, to May 15, 1865, or so much thereof as may be unpaid. He was dismissed December 17, 1864, and was, of course, entitled to his pay to the date of the receipt of the order of his dismissal at his station. This is fully stated in the communication of the Adjutant-General above quoted, and if he was entitled to any pay at all for services rendered after the receipt of his order of dismissal (December 17, 1864), then he was clearly entitled to receive pay to June 27, 1865, the day when he was honorably discharged, which discharge was to take effect, however, as of date of his dismissal, to wit, December 17, 1864; so that the real question before the committee is, Is the said Bowles entitled to pay from December 17, 1864 (or, strictly, from the day he received notice of his dismissal, reasonably within a short time after December 17, 1864), up to the date of his honorable discharge? In law, the committee submit that he is not so entitled. Colonel Bowles was dismissed the service December 17, 1864. On the 27th of June, 1865, he was honorably discharged, but this discharge was to take effect as of the date of his dismissal, viz, December 17, 1864.

Hence, as well by the terms of the discharge as by the order of dis-

missal, his connection with the Army ceased December 17, 1864, and therefore he held no office and performed no service to entitle him to pay after that date.

Are there any equities in the case which would entitle the applicant to relief?

His military history shows that he was mustered in as lieutenant-colonel May 2, 1863. He was dismissed December 17, 1864. The history shows as follows:

He performed but little duty subsequent to his muster-in as lieutenat-colonel [May 2, 1863] (only two months with his regiment), but was finally paid (or is now [May 8, 1876, date of said history] entitled to pay), to the termination of his nominal service, that is, to the date of receipt at his station of the order of dismissal.

The committee notes the expression, "*nominal service.*"

A above stated it is clear that the applicant accepted the honorable discharge of June 27, 1865.

Thus matters rested, apparently to the satisfaction of all concerned, till August, 1869, more than four years after the date of discharge, when the applicant made claim for pay up to the final order, June 27, 1865, in his case, "which claim," says his history, "was rejected as not being founded in equity." No more is heard of the matter, so far as the committee is advised, till first session, Forty-fourth Congress, when S. 442 for his relief was presented, and February 14, 1876, referred to Committee on Military Affairs, and that is the last of that bill, so far as the committee is advised.

Then comes this bill, read, January 25 last, twice and referred to this committee.

Colonel Bowles gives his version in a communication dated August 1, 1876, addressed to this committee, which might have had weight in some of his many troubles if it had been promptly presented to his superior officers, who showed great anxiety to know the reasons for his long and repeated absences from duty; but it is submitted that being wholly *ex parte* and *dehors*, the record furnished by the Adjutant-General and the Judge-Advocate-General, it has nothing to do with the committee. The record furnished by the Bureau of Military Justice, dated May 12, 1865, shows that he was before a court of inquiry to account for being absent on a 30 days' leave, for six months, convened at Fort Leavenworth, Kans., February 10, 1864. This court of inquiry, on the testimony adduced, was of opinion that he "had made all the exertions compatible with the state of his health to rejoin his station." It further appears that on the 28th of May, 1864, his commanding officer requested Lieutenant-Colonel Bowles to be returned to his regiment. This application was indorsed by Lieutenant-Colonel Williams commanding brigade, as follows:

Respectfully forwarded. Lieutenant-Colonel Bowles has been on duty with his regiment less than two months since 1st April, 1863, and seeks by every subterfuge to absent himself from his command, and to avoid the fatigues and responsibilities of an officer in the field. In my opinion this case is one that demands the earnest attention of those having power to dismiss officers from the service, and I would recommend the dismissal of this officer for the reasons above stated.

This was forwarded to and approved by General J. M. Thayer, and by Major-General Steele, commanding Department of Arkansas. General Steele was, upon receipt of the papers at the War Department, advised, by order of the Secretary of War, that General Curtis had been directed to order Lieutenant-Colonel Bowles to join his regiment for duty, and that upon his arrival he would be brought before a military board to account for his absence. Again, June 30, 1864, General Curtis was instructed from the Adjutant-General's Office to relieve Lieutenant-Colonel Bowles from special service, and order him to his regiment.

The transcript from the Judge-Advocate-General makes it clear that General Curtis did not comply with this instruction. Hon. James H. Lane then intervened on behalf Lieutenant-Colonel Bowles, and 1864, October 15, Lieutenant-Colonel Bowles was ordered to report in person to General Steele without delay at Little Rock, and 1864, December 1, Hon. J. H. Lane again intervened, and advised the department that Lieutenant-Colonel Bowles was in Kansas on detached service, urging that he be ordered to report to General Curtis for duty. This note of Mr. Lane being referred to Lieutenant-Colonel Foster, assistant adjutant-general volunteers, he reported, December 10, 1864, recommending that Lieutenant-Colonel Bowles be ordered *once more* to his command, there to account for his absence before a commission, but expressed at the same time his belief that he could complain of no injustice if summarily dismissed the service. December 15, 1874, this report was submitted by Assistant Adjutant-General Vincent to Major-General Halleck, chief of staff, with recommendation that Lieutenant-Colonel Bowles be summarily dismissed, the reasons given being—

> That since his muster into the service May 2, 1863, he has rendered little or no service with his regiment; has been guilty of disobedience of positive orders from this department to rejoin his command, and has neglected to make the reports required by paragraph 468 of General Regulations and General Orders No. 30 and 100, of 1862, and thus exhibited a total disregard of existing orders and regulations, exhibiting either gross ignorance of their existence, or willful neglect of their requirements.

December 16, 1864, the above was approved by General Halleck, and on the same day by the Secretary of War; whereupon Lieutenant-Colonel Bowles was summarily dismissed the service.

Hon. J. H. Lane and others, including the governor of Kansas, submitted a petition to the President for the revocation of this order, setting forth the good character of Lieutenant-Colonel Bowles, his services to Kansas in the cause of freedom in her early history, services in the war of the rebellion, &c. Lieutenant-Colonel Bowles also submitted his sworn statement, alleging his absence to have been occasioned by chronic diarrhœa, &c., and that he had forwarded surgeon's certificates to General Steele showing this, &c. After the above report was made up, the Judge-Advocate-General states that a letter was referred to his office from Hon. J. H. Lane, from the Adjutant-General's Office, the contents of which are substantially given in the report, strongly indorsing Lieutenant-Colonel Bowles, and for which the committee refers to accompanying report of the Judge-Advocate-General, from which the above extracts have been taken. Upon the whole case, Major Hosmer, major and judge advocate, in the absence of the Judge-Advocate-General, concludes:

> It is believed, therefore, that this officer may properly be reinstated in his late rank and command, if the place is still vacant, and the number of men in the regiment is such as to warrant it.

This report, as before stated, is dated May 12, 1865. Without expressing an opinion as to the correctness of the above conclusion, it suffices to say that this recommendation is doubly conditional: first, *that the place is still vacant*, that is, on May 12, 1865, the date of recommendation; and, second, that the number of the regiment will justify such restoration; *and that he could not possibly, on that recommendation*, be restored, *because anterior to its date the place was filled, April* 22, 1865. (See military history, Lieutenant-Colonel Bowles, heretofore quoted, furnished by the Adjutant-General.) This full examination satisfies the committee that the bill should not pass, and the committee so recommend.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 197.

IN THE SENATE OF THE UNITED STATES.

MARCH 27, 1878.—Ordered to be printed.

Mr. HARRIS, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 342.]

The Committee on Claims, to whom was referred the bill (S. 342) for the relief of Phœbe Henrietta Grossbeck, submit the following report:

That this claim is based upon a voucher issued by W. H. Brown, captain and assistant quartermaster of the United States Army, to the claimant (in the name of Henrietta Groesbeck) in September, 1865—

For rent of one building at San Antonio, used for the headquarters and offices of the commander of the post at San Antonio from August 1, to September 30, 1865, two months, at $150 per month, $300.

To which is added the following:

I certify that the above account is correct and just; that the services were rendered as stated; that they were necessary for the public service, and that the services have been reported by me according to the Army Regulations, as per my report of persons, &c., for the month of September, 1865.

W. H. BROWN,
Captain, Assistant Quartermaster.

This voucher was presented to the Quartermaster-General, who, on the 15th February, 1872, referred it to the Third Auditor of the Treasury, who, on the 8th March, 1872, rejected the claim, as follows:

The claim, having originated in an insurrectionary district during the late war of the rebellion, is barred from settlement by act of Congress of February 21, 1867. It is therefore disallowed.

The committee, being of opinion that the claim is just and should be paid, report the bill back, with the recommendation that it pass.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 198.

IN THE SENATE OF THE UNITED STATES.

MARCH 27, 1878.—Ordered to be printed.

Mr. HARRIS, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 471.]

The Committee on Claims, to whom was referred the bill (S. 471) for the relief of Miles S. Draughon, of Tennessee, report:

That the committee addressed a letter of inquiry to the Secretary of the Treasury asking such information as the records and files of that department could furnish as to the justice of the claim of the petitioner.

In answer to which the committee received certified copies of five vouchers in favor of Miles S. Draughon for rent for $12 each, making $60; said vouchers were issued by Henry L. Wheeler, first lieutenant Eighth Wisconsin Battery, acting assistant quartermaster, for rent of five rooms from 1st December, 1864, to 1st of May, 1865. The vouchers show that the rooms were necessary to the Army and were actually occupied under the contract made by Lieutenant Wheeler, acting assistant quartermaster. These vouchers were presented to the Quartermaster-General and by him referred to the Third Auditor, who, on 21st March, 1872, rejected the claim, as follows:

"The claim having originated in an insurrectionary district (Tennessee), and during the late war of the rebellion, is barred from settlement by the accounting-officers of the Treasury by act of Congress of February 21, 1867."

The committee being of opinion that the claim is just and should be paid, report the bill back with the recommendation that it pass.

C

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 199.

IN THE SENATE OF THE UNITED STATES.

MARCH 27, 1878.—Ordered to be printed.

Mr. COCKRELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 1224.]

The Committee on Claims, to whom was referred the bill (H. R. 1224) for the relief of Will R. Hervey, have fully considered the same, and submit the following report:

This bill appropriates to claimant the sum of $3,639.25, the amount of a forged draft, purporting to have been drawn by H. C. Ransom, brevet lieutenant-colonel, chief quartermaster Department of the Cumberland, and also depot quartermaster at Louisville, Ky., dated at Louisville, February 2, 1870, payable to Albert Fink, or bearer, and drawn on the depositary of the United States at Louisville, Ky.

Claimant, Will R. Hervey, was cashier, and was appointed March 15, 1865, and served to June 30, 1874, when the depositary was removed.

Claimant bases his rights upon certain alleged facts, to wit, that said check was upon the usual blanks furnished disbursing-officers to be used in drawing money from said depositary, and that it was payable to Mr. Fink, or bearer, and that Mr. Fink was a gentleman of business, to whom such checks were being given by disbursing-officers; and that the signature to the same was such a perfect imitation of the genuine handwriting and signature of Colonel Ransom that he, as such cashier, by the exercise of due diligence and care and without fault or neglect, failed to discover the forgery, and therefore paid it in the usual course of business; and after the forgery was discovered paid this said depositary the said sum and used all possible means of tracing the forgery.

To sustain these allegations claimant produces the affidavit of the depositary at the time, James P. Luse, as follows, to wit:

This affiant states that he is United States depositary at Louisville, Ky.; that a check, purporting to be drawn by H. C. Ransom, brevet lieutenant-colonel and quartermaster, on duty in Louisville, for $3,639.25, was paid by Will R. Hervey, cashier, on the 2d day of February, 1870, which afterward proved to be a forgery; and, as soon thereafter as said Hervey could arrange to do so, he paid the full amount into the depository. He knows personally that said Hervey made every effort to discover the forger, and has not yet remitted his efforts; but up to this time they have been unavailing. That upon a rigid scrutiny of said check, and a careful comparison of it with other checks of said Ransom known to be genuine, he found the imitation so perfect as almost to defy detection. He says that said Hervey has been cashier for a number of years, for the last four of which under affiant, and during that time has discharged his duties faithfully, devoting himself to his business, and exercising all the care and attention which any could.

In testimony whereof the affiant has hereunto subscribed his name and made oath thereto, January 7, 1873.

JAMES P. LUSE,
United States Depositary.

Subscribed and sworn to before me this 7th day of January, 1873.

JNO. T. McQUIDDY,
Notary Public, Jefferson County, Kentucky.

Also the affidavit of A. Hoagland, special agent of the government:

I do hereby certify that, in February, 1870, and for some time subsequent thereto, I was a special agent of the Treasury Department, my business being to detect frauds upon the government, particularly in the Internal-Revenue Department, by counterfeiting stamps and otherwise; that at the request of Mr. Luse, surveyor, and Mr. Hervey, cashier United States depository, and by the direction of the Secretary of the Treasury, I endeavored to discover the person or persons engaged in the forgery of a check purporting to be drawn by Brevet Lieut. Col. H. C. Ransom, quartermaster, for $3,639.25, on the United States depository, and which was paid by Mr. Hervey. I labored earnestly in this matter, with the assistance of Mr. Luse and Mr. Hervey, but could not obtain sufficient proof to fasten the charge upon any one, although I found enough to fix a strong suspicion upon some parties. It was the best executed forgery I ever saw, and, from the nature of my business and long practice therein, I consider myself an expert. The check used was taken from a book furnished by the department for the use of disbursing-officers. I satisfied myself that it did not come out of Colonel Ransom's book, but from that of another disbursing-officer, who occupied an apartment in the same building. The filling up and the signature were perfect imitations of Colonel Ransom's handwriting, and well calculated to deceive any one, even on close inspection; and several persons familiar with Colonel Ransom's writing expressed to me the same opinion.

A. HOAGLAND.

Subscribed and sworn to before me this 20th day of January, 1873.

W. A. MEREDITH,
United States Commissioner.

Also the affidavit of Walworth Jenkins, chief of police of the city of Louisville, Ky., and in February, 1870, chief clerk to Colonel Ransom, to wit:

STATE OF KENTUCKY,
Jefferson County, sct:

Personally appeared before the undersigned, a duly-commissioned notary public in and for said State and county, Walworth Jenkins, of Louisville, Ky., who, being duly sworn, deposes and says that he is chief of police of the city of Louisville, Ky., and was formerly a captain and assistant quartermaster United States Army, and in February, 1870, was chief clerk in the office of the chief quartermaster of the Department of the Cumberland, then in charge of Bvt. Lieut. Col. H. C. Ransom, quartermaster United States Army; that said Colonel Ransom was also depot quartermaster in said and had two offices and sets of employés as chief and depot quartermaster; that affiant has known said Ransom for over twenty years, and is familiar with the handwriting of said Ransom; that he has frequently seen and examined a certain check, dated February 2, 1870, in favor of Albert Fink, for $3,639.25, or thereabouts, purporting to be drawn on designated depository of the United States at Louisville, Ky., by H. C. Ransom, brevet lieutenant-colonel and chief quartermaster, Department of the Cumberland, and paid at said depository by William R. Hervey, cashier of said depository; that the filling up and signature of said check are so well executed, and so similar to the handwriting of said Colonel Ransom, that a close examination would not, in his opinion, detect a forgery. To all letters and official papers relating to the business of Colonel Ransom, as chief quartermaster of the department, the signature invariably was "H. C. Ransom, Bt. Lt. Col. & C. Qm. D. C.," and to all checks and papers relating to his business as depot quartermaster, the signature was "H. C. Ransom, Bt. Lt. Col., Qm.," the official designation being written below his name. This check was signed in the former manner, and I have compared the signature with his signature to letters in the copying book, placing the letter over the check and the signatures in several cases fitted so closely that I was satisfied the forgery was done by tracing a genuine signature. I have always believed that the filling up and signature of the check were either original or traced from some of Colonel Ransom's original writing.

W. JENKINS,
Chief Police, Louisville, Ky.

Sworn and subscribed before me, this 8th day of January, 1873.

JAS. C. MONES,
Notary Public, Jefferson County, Kentucky.

Numerous witnesses testify to the high character and standing of Mr. Hervey, his close attention to business, and his great care, prudence, and diligence.

Your committee addressed a letter of inquiry to the Secretary of the Treasury, and received the following answer, to wit:

TREASURY DEPARTMENT, *March* 25, 1878.

SIR: Referring to your letter of the 15th instant and your conversation of the 22d instant with the chief clerk of this department, relative to House bill No. 1224, for the relief of Will R. Hervey, late cashier of the United States depository at Louisville, Ky., for having paid a check purporting to be drawn by Colonel Ransom upon that office February 2, 1870, in favor of Albert Fink, or bearer, for $3,639.25, alleged to be a forgery, I have the honor to inform you that it appears from the records of this department that Will R. Hervey was appointed in the office of the United States depositary at Louisville, March 15, 1865, and that he remained in the office until it was abolished on June 30, 1874.

The blanks for checks drawn upon that office by all officers were furnished by the department, and were uniform in design and color, and the check in question appears to have been drawn upon one of the usual blanks.

An examination of the paid checks of the depository in question on file in this department shows that frequently large amounts were paid upon checks drawn to bearer without indorsement, and that the serial numbers of checks were frequently changed by the drawers.

At the time the depository was abolished the amount of public money turned over was found to be correct.

From July 1, 1865, to June 30, 1874, the office in which Mr. Hervey was cashier received about $64,000,000 and disbursed about $63,000,000.

The copy of the report of balances, herewith inclosed, shows the number of accounts, and to whom the money belonged on February 5, 1870, the date of the report nearest that of the alleged fraudulent check, from which it will be seen that the office had open accounts with forty-two disbursing-officers.

The check in question inclosed in your letter is herewith returned as you request.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. F. M. COCKRELL,
United States Senate.

Mr. Cockrell, for the committee, made a comparison of the forged check with genuine checks drawn by Colonel Ransom about the same time, and found the signature to the forged check an almost perfect imitation of the genuine signature, not only in general appearance, but also in the smallest minutiæ and forms of the letters, &c. On February 5, 1870, according to the statement sent with letter of Secretary, there was on deposit, at said depository in Louisville, the sum of $631,751.84 in the names of some forty-two different depositors.

Your committee believe from the evidence that Mr. Hervey was attentive, diligent, and careful, and without fault, neglect or want of care paid this forged check, honestly believing it genuine, and that the resemblance of the forged signature to the genuine was so very great and perfect that no business examination would detect the forgery, and that, as a matter of equity and fair dealing, the government should refund the said principal sum to him.

Your committee, therefore, recommend the passage of said House bill, reported back without amendment.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 200.

IN THE SENATE OF THE UNITED STATES.

MARCH 27, 1878.—Ordered to be printed.

Mr. MORGAN, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 378.]

The Committee on Claims, to whom was referred the bill (S. 378) for the relief of William L. Hickam, of Missouri, have had the same under consideration, and report the bill with amendments, and recommend its passage.

From the evidence before the committee, which is submitted as part of this report, and is marked Exhibits A, B, C, and D, it satisfactorily appears that the said William L. Hickam is the lawful guardian of the minor children of Hillery J. Jenkins, late private of Company A, Sixth Regiment of Missouri State Militia, who are entitled to a pension, No. 175447 on the pension rolls.

It appears from the letter of the pension agent at Saint Joseph, Mo., that a check was drawn by W. T. Johnson, pension agent at that place, in favor of William L. Hickam, on the assistant United States treasurer at Saint Louis, Mo., No. 61872, dated November 30, 1876, for $1,616.33 for the first payment on said pension. It appears from the letter of A. E. Edwards, assistant treasurer of the United States, dated February 12, 1877, that check No. 61872 for $1,616.33 in favor of William L. Hickam has not been paid, and that, at his request, payment has been stopped.

It appears from the affidavit of William L. Hickam that he never received said check, and that nothing has been paid on account of the same. Under the law, no duplicate check can be issued in such cases in lieu of the original, where the amount is over $500. (See Revised Statutes, § 4770.)

It is therefore the duty of Congress to provide by law so that the money may be paid to the person entitled.

The bill that is herewith reported is believed to be guarded sufficiently to provide against the payment of the original draft.

AGENCY FOR PAYING UNITED STATES PENSIONS,
Saint Joseph, Mo., January 3, 1877.

DEAR SIR: On the 18th ultimo I addressed a letter to the Commissioner of Pensions in regard to issuing a duplicate to William L. Hickam, guardian Jenkins' heirs, and received in reply substantially as follows:

"That the laws make no provision for the issuance of a duplicate where the original is over $1,000, and that the payee's only relief is by a special act of Congress, which has been obtained in several cases."

The check was numbered 61872; dated November 30, 1876; amount, $1,616.33, and drawn to the order of William L. Hickam, on the assistant United States treasurer, Saint Louis, Mo., and signed by me as pension agent.

You had better address a letter to your member of Congress at once, and have him prepare a petition for a special act; and as soon as that has been obtained, I will issue the duplicate, after all the forms of law have been complied with.

Respectfully,

W. T. JACKSON,
Pension Agent,
Per HOWE, *Clerk.*

W. M. N. GREEN, Esq.

You can probably prepare the petition yourself from the facts herein set forth.

DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
Washington, D. C., January 13, 1877.

SIR: Yours of the 6th instant is received relative to the pension of the minors of Hillery J. Jenkins, No. 175447, the first payment of which was at Saint Joseph agency, Mo., on the 30th November last, by check No. 61872, for $1,616.33, in favor of William L. Hickam, guardian, and which check, it is alleged, has not been received by him, although you have received yours for the fee as attorney.

In answer to your inquiry, how to obtain a duplicate for the guardian, you are informed that when a check is not over $1,000, a duplicate will issue at the end of six months from the date of the original, upon the approval of the indemnifying bond; but in this case, if only one check was given for the amount, legislation by Congress is required to authorize a duplicate. Whether an act would be passed before the expiration of six months, prescribed for checks of $1,000 or under, is not known.

Very respectfully,

J. A. BENTLEY,
Commissioner,
Per H. W. S.

W. M. N. GREEN, Esq., *Lexington, Mo.*

STATE OF MISSOURI,
County of Lafayette, ss:

On this 15th day of February, A. D. 1877, personally appeared before me, the undersigned clerk of the county court in and for the county and State aforesaid, duly authorized to administer oaths for general purposes, William L. Hickam, who, being duly sworn according to law, does depose and say that he is the lawful guardian of the minor heirs of Hillery J. Jenkins, late private of Company A, Sixth Regiment Missouri State Militia, and that on or about 20th day of November, 1876, the pension agent at Saint Joseph, Mo., sent me a blank, with receipts attached, to fill out to draw the money for the minors of the aforesaid soldier. I filled out the blank and signed the two receipts, but have never received any money or check for the heirs of the aforesaid soldier from the pension agent or any one else. I never have received a check No. 61872, dated November 30, 1876, for $1,616.33, which was issued by the pension agent, and have ordered the payment on the original stopped, as I don't know whose hands it has fallen into.

WILLIAM L. HICKAM.

Subscribed and sworn to before me this 15th day of February, A. D. 1877.

In witness whereof I hereunto set my hand and official seal. Done at office in the city of Lexington, date aforesaid.

[SEAL.]

WM. B. STEELE,
Clerk of Lafayette County Court.

OFFICE OF ASSISTANT TREASURER UNITED STATES,
Saint Louis, Mo., February 12, 1877.

SIR: Your letter of February 8, 1877, has been received, and in reply you are informed that check No. 61872, drawn on this office November 30, 1876, by William T. Jackson, United States pension agent, payable to order of William L. Hickam, for the sum of sixteen hundred and sixteen $\frac{33}{100}$ dollars ($1,616.33), has not been paid, and, as requested, payment thereon has been stopped.

Very respectfully,

A. G. EDWARDS,
Assistant Treasurer United States.

W. M. N. GREEN,
Lexington, Mo.

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 201.

IN THE SENATE OF THE UNITED STATES.

MARCH 27, 1878.—Ordered to be printed.

Mr. HEREFORD, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 997.]

The Committee on Claims, to whom was referred the case of William L. Adams, late collector of customs at the port of Astoria, Oreg., submit the following report:

This case has been before Congress since 1866. Three reports have been made on it; two by a committee of the Senate, one by a committee of the House of Representatives.

Your committee adopt the report made on behalf of the committee of the Senate, May 25, 1874, by Mr. Pratt, which is as follows:

This case has long been before Congress. The memorial of Mr. Adams was first presented December 6, 1866; again on the 7th of March, 1867; again on February 24, 1868; and still again on the 18th of March, 1874. On the 24th of February, 1868, Mr. Willey, from the Committee on Claims, made an adverse report thereon, as follows:

[Senate Report No. 57, 40th Congress, 2d session.]

FEBRUARY 24, 1868.—Ordered to be printed.

Mr. WILLEY, from the Committee on Claims, submitted the following report:

The Committee on Claims, to whom was referred a memorial for the relief of William L. Adams, together with sundry accompanying papers, have considered the same, and beg leave to submit the following report:

The said William L. Adams has been collector of customs for the district of Oregon since June, 1861. He alleges that in pursuance of instructions from the Treasury Department he did, on the 3d of February, 1866, proceed to carry from Astoria, in Oregon, to San Francisco, in California, for the purpose of depositing there, with the United States assistant treasurer, the money belonging to the United States then in his hands. The amount of said money was $46,500 in gold coin, and $1,000 in currency. He went on board the steamer Oregon, at Astoria, on the 3d of February, 1866. The following is his own statement of how he made the voyage, what care he bestowed in guarding the money, and how he was robbed of a part of it:

"During the voyage to San Francisco I kept the money in my trunk in my state-room, which I occupied alone. On reaching the Russ House in San Francisco, and upon opening my trunk, I found that out of $46,500 in United States gold coin, two sacks, one containing $12,500 and the other $8,000 had been taken out by some thief who had pried off a portion of the bottom of the trunk and then replaced it. Having no suspicions when I left the steamer at the wharf in San Francisco that my trunk had been disturbed, I did not open it or lift it to see that the money was all there. The trunk was heavy, weighing, probably, over two hundred pounds, and I could not, in my poor state of health, lift it. The men who carried the trunk from my room on the steamer to the Russ House coach acted as though it was still heavy enough to weigh over two hundred pounds. During the entire voyage I was seldom absent from my room, never leaving it except for my meals, walking on deck for exercise, &c., when I was careful to pass near

or in sight of my room-door very frequently. I often suffered much with cold while remaining in my room after dark. The money was taken by the thief, as I have since learned, while I was at breakfast the morning before I reached San Francisco. The trunk was left tied up with cords, as usual, and nothing about its appearance indicated that it had been molested. I carried the key of my room constantly in my pocket while absent from it, and was always present when the waiter cleaned the room. I exercised all the vigilance I thought possible—all I would have exercised if it had been my own money."

This is Mr. Adams's own statement of his case under oath.

The evidence leaves no doubt that the money was stolen, and that the amount stated was stolen. The thieves were subsequently arrested, and a part of the money recovered, as will be seen by reference to a letter from the Secretary of the Treasury here following, to wit:

TREASURY DEPARTMENT,
February 11, 1868.

SIR: I have the honor to acknowledge the receipt of your letter of December 19, 1867, in reference to the memorial of W. L. Adams, late collector of customs at Astoria, Oreg.

Mr. Adams prays for relief from Congress of all liability on account of money stolen from him while being transported to San Francisco, and, as a member of the Committee on Claims, to which the same was referred, you desire me to communicate any information in possession of the department as to the amount stolen, amount afterward recovered, and any other facts in the case material to the interests of the government or to the just rights of Mr. Adams, "with my opinion as to what would be just and equitable to be done in the premises."

In reply I can state generally that the arrest and confession of Lambert at New York, and of McElroy and Rogers at San Francisco, resulting in the recovery of some $8,300 of the stolen money, removes all doubt as to the fact of the robbery on the steamer Oregon in February, 1866, and corroborates the statement of Mr. Adams as to the amount having been $20,500 in gold coin. To a man in moderate circumstances the loss of so large a sum would naturally create much distress and embarrassment, but whether such a misfortune entitles the loser to relief from all pecuniary liability to the government involves other and different considerations; as—

1. Was the memorialist in the line of duty when the loss occurred, or was the journey undertaken and the risk incurred in violation of orders? (See letter of instructions, December 14, 1865, which by regular course of mail should have reached Astoria about the 10th of January, 1866.)

2d. If the mail was delayed, and the order to remit by the express did not, as alleged, reach the collector's office until some days after he sailed, still, did not common prudence require that public treasure of so great value should have been packed in strong boxes, strapped with iron, instead of being thrown into a rickety trunk, with an insufficient lock, and tied only with a cord?

In explanation, Mr. Adams claims that he acted under express instructions, dated December 8, 1864, and October 20, 1865; that the order to remit *by express* had not reached his office when he sailed, nor until some six days thereafter; that he was forced to hurry on board the steamer in the night lest he should lose his passage, and that he took as good care of the money on the vessel as he could or would have done if all had been his own.

Copies of these different letters accompany the memorial, and of the sufficiency of Mr. Adams's explanations the committee must judge.

On arrival of the ship at San Francisco and discovery of the loss by Mr. Adams, it appears he put himself in immediate communication with the city police, the United States marshal, district attorney, &c., and offered a reward of $3,000 for the recovery of the money. This was all any one could have done under the circumstances.

Lambert, represented as the principal robber, fled to New York, and was there arrested. In his possession were found $4,420 in gold, $2,000 in currency, and seven certificates of stock in mining companies in Nevada, estimated at little if any value. McElroy and Rogers, accomplices, were, meanwhile, arrested in San Francisco, and $6,100 in gold recovered from them. Out of this sum the police retained, as per agreement with Mr. Adams, $1,067.30, and paid over the balance, $5,032.70 to the district attorney, Delos Lake, esq., who, it appears, retained $1,000 of the fund for the payment of counsel fees, &c., and deposited with the assistant treasurer at San Francisco, to the credit of Mr. Adams, $4,032.70. Touching this the department was unadvised, and has been made acquainted with the facts stated only by the accidental discovery of a letter from Mr. Lake to Mr. Parker, of Astoria, dated San Francisco, October 2, 1866, found among the papers accompanying the memorial. The retention of $1,000 of the stolen money by the district attorney being unauthorized by law, he was instructed to deposit, without delay, the amount in coin as a credit to Mr. Adams, and I am pleased to say that the deposit has been made, and the late collector's indebtedness has been reduced by that amount. This explains the delay by this department in answering the call of the committee.

After considerable delay and litigation in the court in New York with parties claiming to be assignees of Lambert, the district attorney, Mr. Courtney, with the concurrence of the Solicitor of the Treasury, acceded to a proposal of compromise, on the basis of an equal division, and deposited, as a credit to Mr. Adams, $2,210 in gold and $100 in currency. If anything is ever realized from the mining-shares still on deposit in the court at New York, the proceeds are to be equally divided as above.

As soon as the alleged robbery of Mr. Adams was known here, Special Agent Gitchell, on the Pacific coast, was instructed to proceed to Astoria and make a full examination of the collector's office. On his return to San Francisco he reported at length under date of June 28, 1866; a copy of this report I herewith transmit. The committee will find the first part of this report quite satisfactory, showing a very creditable administration of the office, but the part relating to the payment of his own and his son-in-law's salaries in gold, and the sale of other large sums for currency, without corresponding credits to the government for the premiums received, is rather damaging to the collector as an accountant, if not as a faithful and upright officer. Though wholly unauthorized to sell any portion of his receipts as collector, yet, having assumed the responsibility, it was clearly his duty to report the facts and account for the premium received. He has made no such returns, and, in consequence, no such charge yet appears in his accounts. Irrespective of this item, the books of the Commissioner of Customs show balances against Mr. Adams as follows:

Coin account	$14,953 98
Currency	3,073 67
	18,027 65

If the sums recovered from the robbers had not been credited, his general account would have shown balances, thus:

Coin	$22,196 68
Currency	3,173 67
	25,370 35

His actual loss on account of the robbery, on a coin basis (including expenses at San Francisco, $1,067.30, and excluding the $100 currency), may be stated separately, thus:

Loss, gold coin		$20,500 00
Deduct amount received at New York	$2,210 00	
Deduct amount received at San Francisco	6,100 00	
		8,310 00
Net loss		12,190 00
Adding expense at San Francisco		1,067 30
		13,257 30

If relief shall be granted on the above basis, the whole loss in coin being covered, the $100 currency, with any amount eventually realized from the mining-stocks, will inure to the credit of miscellaneous receipts, and Mr. Adams's general account will stand thus:

Balance due in coin	$14,953 98
Less, per act for relief, $12,190, or $13,257.30, or whatever sum Congress may allow	.....
Balance due in currency	3,173 67

These are the leading facts in this case, so far as known to the department. As to "what would be just and equitable to be done in the premises," I can only say that upon the whole I incline to the opinion entertained by Mr. Adams's friends in Oregon, that he is an upright, well-intentioned man, without much practical experience in business; that he possesses but little property, and feels greatly distressed by this unfortunate loss. They think he is entitled to public sympathy, and, with a view to an early and amicable settlement of his account, I commend his prayer for relief to the favorable consideration of the committee.

The memorial and accompanying papers are herewith returned, and I have the honor to remain,

Very respectfully, your obedient servant,

H. McCULLOCH,
Secretary of the Treasury.

Hon. W. T. WILLEY,
Committee on Claims, United States Senate.

The first question arising in this case is, had Mr. Adams, at the time he left Astoria, on the 3d of February, 1866, authority or instructions to go *in person* and deposit the money with the United States assistant treasurer at San Francisco; or should he have availed himself of the usual means of sending it by express and thus of securing to the United States the benefit of the liability of a common carrier for a failure of delivery.

Mr. Adams files copy of a letter to him from Assistant Secretary Harrington, of the date of December 8, 1864, containing the following:

"You are hereby directed to deposit *in person*, and without delay, the entire [amount] of money you may have on hand, on the receipt of this letter, due to the United States (less $1,000 to be retained for the contingent expenses of your office), with D. W. Cheesman, esq., treasurer, at San Francisco."

He also files a copy of a letter from N. Sargent, Commissioner of Customs, of the date of 20th October, 1865, as follows:

"SIR: Your official bond has been received, and your commission is herewith inclosed. Unless you have already divided your accounts, and deposited the balance due the United States, you will, on the 31st day of December next, close up your present series of accounts, deposit the balance due the United States with the assistant treasurer at San Francisco, and transmit the receipts for the same to this department, and commence a new series on the 1st day of January, 1866."

Mr. Adams also files a copy of a letter from William E. Chandler, Assistant Secretary of the Treasury, of the date of December 14, 1865, which, after requiring him to deposit, without delay, the balance in his hands with the assistant treasurer at San Francisco, contains this clause:

"To effect this object with due precaution, you are authorized, after care yourself in the count of the money and properly securing it in a box of sufficient size and strength, to make the best terms you can, consistent with safety, with Wells, Fargo & Co.'s express agency, for the transportation of this money to the office of the assistant treasurer at San Francisco, taking from said company a receipt for the amount, showing on the face of the receipt that the money belongs to the United States, that it is received for safe-keeping, transportation, delivery, &c."

It will be seen that the Secretary of the Treasury thinks that this letter, in due course of the mail, ought to have reached Astoria "about the 10th of January, 1866." But it is in proof, not only by the affidavit of Mr. Adams himself, that this letter did not reach Astoria until after he had left there with the money, as hereinbefore stated, but it is also so proven by the affidavit of W. W. Parker, deputy collector, who states in his deposition that—

"On the 9th day of February (1866), six days after Mr. Adams left, an order from the department to send the money to San Francisco by express was received at the custom-house."

It would, therefore, seem that Mr. Adams, not having received this letter of Assistant Secretary Chandler, of the date of December 14, 1865, prior to his departure on the 3d of February, 1866, with the money as above stated, might properly have regarded himself, at that time, authorized and required, under previous instructions, to go *in person* with the money to San Francisco.

But a more serious question under the facts, as disclosed in this case, remains to be considered. Did Mr. Adams, in carrying this money, in person, to San Francisco, use the care, diligence, prudence, and discretion, which a public officer in the discharge of such a duty ought to have used? We have already given Mr. Adams's own statement of the manner in which he cared for the money during the voyage from Astoria to San Francisco. He also files several depositions showing what he did, and what took place, and what the circumstances and surroundings were at the time he went on board the Oregon preparatory to his voyage. The following deposition is here inserted for information on these points. There is nothing in any of the other depositions that essentially or materially modifies the statements in this:

"A. Morrison, special inspector for the district of Oregon, being first duly sworn, deposes and says that, at about nine o'clock p. m. on the 3d day of February, 1866, W. L. Adams, collector of customs for said district, called at the residence of E. A. Woodruff, in Astoria, where I was boarding, and requested me and Woodruff to go with him and Charles L. Parker, postmaster, to the custom-house in Astoria, to assist in carrying the government money on hand on board the steamer Oregon, then lying at the wharf at Astoria, which he said he had been ordered by the department at Washington to convey to San Francisco. Mr. Adams said he had engaged a room of the purser to himself, and wished to convey the money on board as privately as possible, and deposit the same in his state-room that night, as Captain Dall said he wished to sail at daylight on the next morning. I went to the custom-house in company with Mr. Adams and E. A. Woodruff, where Mr. Adams unlocked the safe and took out four sacks, containing, as he said, forty-six thousand five hundred dollars in gold. I took a large sack, tied in the middle, said by Mr. Adams to contain $12,500. The sack was very heavy, and I should judge would weigh forty-five or fifty pounds. Mr. Woodruff took a lighter sack. I think it was a shot-bag, and should suppose it contained some eight or ten thousand dollars. Mr.

Adams carried a long buckskin sack, containing, I should think, about the same amount of money the sack contained which Woodruff carried. Postmaster Parker carried a large sack, heavier than either of the others. In passing the post-office, on our way to the steamer, Mr. Adams's trunk and carpet-sack were taken out and carried on board of the Oregon. On reaching the foot of the stairs leading into the cabin, Mr. Adams spoke to a man I supposed to be the steward of the steamer, and asked for "room H." The steward replied, "That room is occupied." Mr. Adams: "I am the man who occupies it; I engaged the room of the purser before I came on board the steamer." The steward replied, "There are already five men in that room; it is a room occupied by the boys belonging to the ship. It is out of order and not a fit room for you." Mr. Adams expressed great astonishment, and replied there must be some mistake about this, as the purser had assured him that room H was unoccupied, and was a nice room with several berths in it. Mr. Adams then requested to see the purser, but was told that he was gone ashore. He then requested to be taken to any unoccupied room, but was told there was none on the ship. During the time of this tedious delay, the money, becoming heavy, was laid on the table to rest ourselves. By request of Mr. Adams I went ashore to hunt the purser, whom I found at the Monitor saloon. I requested him to come on board the ship immediately, as Mr. Adams wished to see him. The purser delayed some minutes, when he went on board of the Oregon. The steward met the purser at the stairs, where they had a short consultation, which I did not hear. The purser then went into his office and the steward came down stairs. The steward then asked Mr. Adams why he would not take a room with another person. Mr. Adams said he would like to do so, if he knew his room-mate to be a good man. The steward, or the man I took to be the steward, showed him a room which he said was occupied by a stranger to him, though a nice-looking young man. Mr. Adams concluded to take it, as the rooms seemed to be all occupied by some one. On going with the trunk and money to the room pointed out by the steward, I told Mr. Adams if I were in his place I would not take it, but would see the purser and know why he had told him a falsehood about the room. My suspicions were aroused that there was something wrong. Mr. Adams assented, when we took the trunk and money back into the cabin, near the stairway, when Mr. Adams said, "I will see the purser myself." Up to the time of depositing the trunk and money in the room above mentioned, Mr. Adams, Parker, Woodruff, and myself, had remained constantly by the money, excepting the short time during which I sought the purser on shore, leaving Mr. Adams, Parker, and Woodruff with the money. On returning, Mr. Adams said the purser would soon have a room ready for him. I should think that more than one hour had now elapsed since coming on board. After ten or fifteen minutes' further delay, in which Mr. Adams manifested a good deal of impatience, we were told that the room was ready, when we—Mr. Adams, Woodruff, and myself—carried the money to his room on deck (Postmaster Parker having returned to his office), and placed it in Mr. Adams's trunk, where he locked it up; and he and Deputy Collector Parker, who had come on board at this time, remained with it—Woodruff and myself going ashore. On our way home I remarked to Woodruff that, from the appearance of things, I should consider it a miracle if Mr. Adams was not robbed and murdered on that steamer. I thought that, in all my experience in the mines, I had not met with men who had worse-looking countenances than several I saw on board the steamer Oregon.

While the evidence in the case, and the conduct of Mr. Adams, indicate nothing justifying any imputation upon his moral character as an honest and upright man, and seem to warrant the opinion of him in these respects expressed in the conclusion of the foregoing letter of the Secretary of the Treasury, yet public policy, in the opinion of the committee, requires that public officers must be held to a reasonably rigid accountability for the faithful and efficient discharge of their duties while in office, so that the public welfare shall not suffer from their negligence, indiscretion, or incapacity. And believing that the facts in this case show that Mr. Adams did not take that care, and exercise that prudence and vigilance in his attempt to carry the money of the United States in his hands to the place where he was required to deposit it, which a vigilant, discreet, and capable officer should and would have done, and that thereby the public money was stolen from him, the committee are constrained, however much they regret to have to come to such a conclusion, and however sincerely they sympathize with Mr. Adams and his friends in his misfortune, to recommend that the prayer of the said memorial ought not to be granted, and to ask that the committee be discharged from the further consideration thereof.

At the present session Mr. Adams has presented additional affidavits, the most material one of which is that of William B. Watkin, who was at the time of the larceny one of the detectives attached to the police of the city of San Francisco, and which, not being susceptible of much abbreviation without detracting from its force, is here inserted at length, and made part of this report:

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

William B. Watkin, being first duly sworn, deposes and says as follows:

I am a resident of the city of San Francisco, Cal., and have lived in said city since

May, 1850. I remember the time of the robbery of William L. Adams, on board the steamer Oregon, on or about the 10th day of February, 1866. I was at that time, and had been for some years previous, one of the detectives attached to the police of said city. The following statement is what I recollect of the affair: On the morning of February 10, 1866, William L. Adams, collector of customs for the district of Oregon, came to the office of the chief of police in San Francisco and reported the robbery of $20,500 from a trunk in his state-room on board the steamship Oregon, on her passage from Astoria, Oreg., to San Francisco.

I. W. Lees, captain of detectives, H. H. Ellis, and myself repaired immediately to the Russ House with Adams, and there made an examination of the trunk which Adams had, on the arrival of the Oregon, conveyed there. In reply to questions, Adams stated that he had placed about $47,000 in coin and a quantity of greenbacks in the trunk in his office in Astoria, for the purpose of bringing the same to this city and depositing it in the subtreasury, and that the money was the property of the United States, having been received by him as collector of customs in Oregon. That during the voyage he carefully watched the trunk, and had never left his room while any person was in it; that he had always locked the door when he went out, and had never been absent from it many minutes; that on arriving in San Francisco he took the trunk with him in a carriage to the Russ House, and a few minutes after his arrival there he opened the trunk and discovered the loss of the money. He also said that the money was placed by him in canvas bags containing different amounts, and these bags and a large amount of currency, together with some clothing, were by him placed in the trunk (which was a common packing trunk), and he then bound the trunk with a cord, tying the cord with a peculiar knot; that on opening the trunk in the Russ House he found two of the bags, containing one $12,500 and the other $8,000, had been abstracted therefrom. Adams spoke of some passengers whom he suspected, and accompanied Captain Lees, Ellis, and myself to the wharf of the Pacific Mail Steamship Company to see if they were aboard the steamer leaving that day for Panama. Not finding them, we went on board the Oregon and commenced a searching investigation of every one on board, from the captain down, but with no success. We then traced up to their various stopping-places nearly every one of the few passengers, and at the close of the day (Saturday) we were pretty well satisfied none of the passengers were the guilty parties. The following day, Sunday, we again went to Adams's room in the Russ House, and commenced a severe and searching cross-examination of Adams, for a rumor had gained currency that Adams was himself the delinquent. He was asked the reason he did not forward the money by express or place it in the hands of the purser of the ship, frankly stating to him that persons trading with Oregon suspected him of robbing himself.

Adams seemed completely crushed at this statement at first; then became indignant, referring us to the Hon. O. C. Pratt, judge of the 12th district court of California, who was, he said, his political enemy, but would, he was satisfied from his high character and sense of honor, do him the justice to state his belief in his integrity. That such report could only have emanated from parties connected with the Oregon and Mexican Steamship Campany, two of whose steamships he had seized for smuggling, and had had condemned in United States district court of Oregon, and *that* was the reason he was afraid of trusting the purser with the money, as he was in their employ, and also being desirous of saving the expense of express-charges, he resolved to bring the money in person to San Francisco. Captain Lees then requested him to cord the trunk again in the same manner as before he left Oregon. This he did in our presence, tying the same peculiar knots as before, and on being asked if the same kind of knots were on it on its arrival at the Russ House he replied they were, and that was what puzzled him, as he never knew any one but himself make such knots, and he could not see how any person could open the trunk and tie it up the same again.

This induced me to make a critical examination of the trunk, when I discovered a mark on the end and bottom of the trunk looking as though made with a chisel, and a further examination revealed the fact that a portion of the bottom had been pried off one of the boards, which were about half an inch thick. Under the force of the implement employed, a piece about four inches wide at one end and not more than three at the other had been split off, forced aside, without disturbing the cords, the money abstracted, and the split piece restored to its place, where it fitted very tightly. On opening the trunk, we also saw where the paper-lining had been torn exactly in shape and form of the split piece. Adams, who had not noticed this, was amazed at the discovery and somewhat revived by it, as by it he saw at once our thoughts were turned in a different channel. Detective Ellis having been a master mariner, proposed we should go down to the steamship Oregon again, and resume our search and investigation there. This we did, questioning every one on board, and making as thorough a search of the ship as could possibly be made, not ommitting even the provisions, linen, and water-tank, also searched every place in the engine-room, boilers, and in fact every spot and place possible to hide the money in, not even neglecting the exterior, thinking possibly *the thieves* might have suspended it overboard with a line. The balance of this day,

Sunday, February 11, was spent in this search, and in examining the hands aboard the vessel, but with no result tending to an elucidation of the robbery. On Monday morning the 12th, thoroughly satisfied the old man Adams had been robbed, and that some of the steamer's hands had done it, I started early down to the ship and arrested a young Scotchman, a waiter on board the vessel, named Andrew Young, who had been on watch the night before the vessel arrived in port, and had proceeded with him but a short distance when we were met by a young man named John Enson Lambert, an Englishman, about 23 years old, whom I recognized as a hand aboard the ship, but was ignorant of the fact that he had charge of the state-room occupied by Adams. Young stopped him and told him he was under arrest for robbing Adams. Lambert replied, "You know nothing about it any more than me," and passed on toward the ship. I asked Young what Lambert did aboard the ship, when he informed me he attended the state-rooms, including the one occupied by Adams.

I ordered Young to stand and remain where he was, and ran after Lambert, arrested and locked him in the same cell with Young. Once in there I was soon convinced Young knew nothing of the robbery, but deemed it best to detain him, which I did until the following Wednesday, when, convinced that he knew nothing of the real culprits, I discharged him, keeping Lambert until the following Saturday, thoroughly satisfied *he* was the man who either took the money or knew who did, but unable to hold him any longer without some actual proof.

I will here state we had all of us been particular in inquiring if any of the hands had left the ship when we went on board on Saturday the 10th, but were assured they had not.

Nothing further of moment transpired to throw any light on the matter until the latter part of March, more than a month after the robbery. Meantime Adams, after paying the balance of the money into the subtreasury, returned to Oregon utterly broken down and nearly insane at the loss of the money. He was a very conscientious, honest, but unsophisticated man, utterly unused to the ways of the world, and the very last man to suspect any one of evil designs. He left with the sympathy of us all. I made inquiries about him of Hon. O. C. Pratt, who told me they were political enemies, but added if there was an honest man in Oregon it was William L. Adams.

After the 15th or 20th of March, Captain Lees received information that Lambert was going East on the steamship Moses Taylor, and also such further information as fixed the robbery on Lambert and the porter of the steamer beyond a shadow of a doubt. We repaired to the steamer on the day of her departure and searched the ship for Lambert, but did not find him, although he was aboard hid by one of the pantry-boys named Rogers, to whom he gave a portion of the stolen money.

After the steamer left port, Captain Lees learned further particulars and telegraphed the chief of police in New York to arrest Lambert on his arrival at that port, and he was accordingly arrested on the 13th of April, 1866, and several thousand dollars found in his possession. He was detained at headquarters of police in that city until a requisition could be sent, Lees telegraphing at the same time to the United States district attorney in New York to attach and hold the money as the property of the government, which he did, and the money was finally turned over to the subtreasurer in New York. While action with regard to the affair was progressing in New York, the Moses Taylor returned to San Francisco, and Captain Lees arrested the pantry-boy Rogers, from whom he received about $500 in coin, and also learned that the porter of the Oregon, whose name was McElroy, had a portion of the stolen money. He was promptly arrested, and surrendered about $6,000 coin, which he had buried on the premises of a relation of his.

We now learned the manner in which the robbery was committed. Lambert took his slop-pail into Adams's state-room as if to clean up, opened the trunk, took the money and put it in the slop-pail, in the water, and covered it with dust and straw. He then took it to the porter McElroy's room, where it was concealed in a valise, and as quick as the steamer made fast to the wharf Lambert placed the valise in an express-wagon and took it to a sailor boarding-house, placed it under a bed, and returned to the ship before he was missed, and that night between 12 m. and 2 a. m. Lambert and McElroy took the money from the sailor boarding-house to the house of a man named McCauley, on Pacific street, and buried it in his stable, where it remained until Lambert's discharge from prison on the following Saturday, when a division of it was made, McCauley, it was said, receiving considerable of an amount. Captain Lees turned over to the United States subtreasurers in this city and New York, as I am informed and believe, about $10,000 in coin, recovered from the within-named parties. I am further informed and believe that Lambert, shortly after his arrest in New York, broke jail and escaped to Philadelphia, was rearrested in that city, and returned to New York, from whence he again escaped and was never retaken.

WM. B. WATKIN.

Subscribed and sworn to this 4th day of March, A. D. 1874, before me.

F. J. THIBAULT, *Notary Public.*

The obligation of the bond which Adams gave as collector of customs required him to truly and faithfully execute and discharge all the duties of his office according to law. One of those duties, and the prominent one, was to safely keep the public moneys which came to his hands by virtue of his office, and to pay them over as instructed by the Secretary of the Treasury. Virtually he became an insurer of these moneys, and in an action at law we suppose nothing would excuse him from accounting for them except the act of God or the public enemy. That he has not a defense at law is the occasion of his appeal to Congress for relief on the supposed equity of his defense.

We think it clear that he was under obligation to transfer this money from the custom-house at Astoria to the assistant treasurer at San Francisco, under the orders received from the Treasury Department of December 8, 1864. That order required him to deposit the entire amount of money he had on hand due to the United States, less one thousand dollars to be retained for the contingent expenses of his office, with Mr. Cheesman, the assistant treasurer at San Francisco. He was required to do this *in person and without delay*. He was not authorized to employ a guard or assistant, even, to accompany him and watch the treasure. Looking to the terms of the order, it is doubtful whether his account for the additional expense would have been allowed had such been employed; for it is evident that the department was intent upon economy in the transmission of the money, since there was an express company on that coast whose business it was to transport valuables and guarantee their safe delivery. This order to deposit in person seems to have been substantially repeated by the Commissioner of Customs in his letter of October 25, 1865.

On December 14, 1865, the department seems to have reconsidered the subject and come to the conclusion that it was more prudent to send the treasure by express, even at enhanced cost; for on that day the collector was instructed to make the best terms he could, consistent with safety, with Wells, Fargo & Co.'s express agency, for the transportation of the money to the office of the assistant treasurer at San Francisco.

It is evident from the testimony that this letter did not reach Astoria until Mr. Adams had embarked with the money on board the steamer on his way to San Francisco, pursuant to the order of the 8th of December. We are of opinion that, until the receipt of the letter of December 14, 1865, the collector was warranted in thinking himself bound to deposit the public money in person according to the instructions of the 8th of December, 1864. Whether Mr. Adams was the fittest man to be intrusted with such an amount of treasure, to go among strangers without any reliable assistant to divide with him the vigilance and care necessary to its safe transportation and delivery, may be questionable; but the department knew or had the means of knowing his qualifications for such an undertaking. All that the government could justly require of him was the exercise of the highest vigilance, care, and judgment of which he was capable. The weight of the money was 200 pounds, sufficiently great if placed in an ordinary trunk to attract suspicion as to its contents, even if the official character of Mr. Adams and his errand were susceptible of concealment. The trunk seems to have been a proper one and well secured. There is no evidence that a safe was kept on the boat for the deposit of treasure, and had there been one it is probable that the officers in charge would scarcely have made the boat and her owners responsible as insurers by receiving the money without exacting a premium commensurate to the risk and probably as high as the express company's charges, the very thing the department sought to avoid. Under these circumstances we think his state-room was as safe a place on board as the collector could find. But it is evident there were occasions when he must be absent from his room, and the trunk, for the time being, be left without his supervision. This was unavoidable. We see no reason to doubt the truth of the account he gave to the detective immediately after the discovery of his loss (two bags of coin, one containing $12,000, the other $8,000). The manner in which the money was abstracted by Lambert, the boat-hand who had charge of Adams's state-room, does not necessarily imply any carelessness on Adams's part. The theft was ingeniously planned and executed, and the most prudent man might have been plundered in the same way. The fact that Lambert escaped twice from prison in New York while under arrest for this transaction proves him to have possessed uncommon genius and resources as a thief and jail-breaker.

Looking at the case as it is presented, by this very full account of the way the larceny was committed and concealed, we cannot find sufficient evidence of carelessness on the collector's part to hold him responsible for the loss.

Our view is strengthened by the recommendation of the Secretary of the Treasury. (See letter of Mr. McCulloch, *supra*.)

The net loss of Mr. Adams was $12,190; his expenses at San Francisco were $1,067.30.

The committee are of opinion that Mr. Adams should be allowed in the settlement of his accounts at the Treasury Department the amount of the money stolen from him, less the amount paid by him subsequently into the Treasury as recovered, and herewith report a bill for that purpose, and recommend its passage.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 202.

IN THE SENATE OF THE UNITED STATES.

MARCH 27, 1878.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 998.]

The Committee on Claims, to whom were referred the petition of George R. Dennis and a bill for his relief, make the following report:

That they find the facts of the case, as set forth in the petition, fully sustained by the affidavits attached thereto, so far as *ex parte* affidavits can establish such facts, and these facts are substantially as follows:

On the 2d day of September, 1864, petitioner being the owner of the schooner William J. Dennis, duly licensed to carry on the coasting-trade and engaged in navigating Chesapeake Bay, John T. Waters being captain and master; said schooner being then engaged on a voyage, carrying freight from the Annamessex River to Baltimore, and having on board 526 bushels of oats, 200 bushels of wheat, 172 bushels of corn, 90 bushels of peaches, 2 tons of cast and wrought iron, 125 grain-bags, and 65 peach-packing boxes, all being the property of the petitioner.

While said schooner thus laden was proceeding on her said voyage, about two o'clock at night of the second or third day of September, 1864, off or near the mouth of the Little Choptank River, and off or near James Point, the wind being southwest or south-southwest, and with her sails drawing with a free wind, those on board said schooner discovered the steamer General Meigs (otherwise called the T. L. Cannon), proceeding on a voyage down the Chesapeake Bay. When discovered said steamer was about four hundred yards from said schooner, coming down with great rapidity upon her; that there were no means by which said schooner could then have avoided a collision with said steamer, the schooner hugging the Eastern Shoals of said bay as closely as safety would allow; that said steamer taking no steps and those on board using no means to prevent such collision, said steamer struck said schooner on the larboard quarter, cutting her down to the light water mark, and so injured her that she immediately capsized and sunk.

That before and at the time of the collision it was very dark, and the schooner had all her lights and signals required by the act of Congress; but that no lookout was kept on board said steamer at and about the time of the collision, and said steamer had not the lights and signals required by law of vessels engaged in such coasting-trade; but that said steamer was at the time of said collision owned by the United States, or at least armed as a government vessel and in the service of the United States, engaged in the lookout for blockade-runners, and for that reason carrying no lights.

But your committee find that had said United States vessel used ordinary caution, said collision would have been avoided.

That after such collision every effort was made to save said schooner and her cargo, but the cargo became a total loss, and the schooner was raised, brought to the shore, and repaired at an expense of $250; the loss of cargo of the value of $1,694.66; cost of taking schooner to place of repair, $100; loss of and injury to furniture, $100; lost time incident to raising and repairing, $250; making total damage claimed, $2,394.66.

The steamer being in the service of the United States, and employed as a part of her Navy, the courts of admiralty had no jurisdiction to adjudicate petitioner's claim. He therefore, in 1866, filed his petition against the United States in the Court of Claims. But upon hearing the case in the Court of Claims, the petition was dismissed upon the ground that the claim or cause of action being for the consequences of a marine tort, the Court of Claims had no jurisdiction to try it.

The petitioner, therefore, asks the passage of the bill referred to the committee directing the Secretary to pay $2,394.66 as the amount of damages to petitioner from the collision.

Your committee, in view of all the circumstances of the case, believe the petitioner entitled to the amount of the claim made in petition. They therefore report back the bill (S. 998) and recommend its passage.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 203.

IN THE SENATE OF THE UNITED STATES.

MARCH 27, 1878.—Ordered to be printed.

Mr. MITCHELL, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 999.]

The Committee on Claims, to whom was referred the petition of Mrs. Eliza E. Hebert, of Louisiana, ask leave to make the following report:

This claim is made by Mrs. Eliza E. Hebert, as assignee of Jules J. Hebert, her late husband, who is now living, and from whom she was divorced on the 10th day of December, 1871, by the fifth district court for the parish of Orleans, in the State of Louisiana, under her maiden name, Eliza E. Hughes. Said parties were married at Saint Louis in 1853. By the death of a brother in Louisiana some time prior to March 20, 1860, said Jules J. became the owner of an undivided interest in a plantation in the parish of Iberville, in that State. By conveyance from his sister, March 20, 1860, he acquired a title to the whole of said plantation. In the beginning of the year 1860 he removed from Saint Louis, Mo., to said plantation, where he and his wife resided during the war of the rebellion.

On the 7th day of February, 1863, the Second Brigade of the Third Division, Nineteenth Army Corps, commanded by General Halbert E. Paine, encamped at Indian Village, near the plantation of said Hebert, and remained there until the 22d of the same month. It appears from General Paine's testimony that on the 8th of February he detailed certain officers to seize necessary mules, horses, carts, wagons, forage, wood, and boats for the quartermaster's department, and sugar, beef, and pork for the commissary department of his command; that he required said officers to give receipts in a prescribed form for all property so taken, and to turn the same over to the proper officers; that he required said officers to inquire and report concerning the loyalty of all persons whose property they should seize, and to avoid, so far as they could, the seizure of any property of loyal persons. He also tesiifies that numerous seizures of property were made under said orders, but that he has no particular recollection of the amount of property so seized. He also testifies that he remembers Mr. and Mrs. Hebert, but testifies nothing as to the loyalty of either, nor that any property was taken from them.

The claim in this case for property taken is as follows:

For 8,000 barrels of corn, at $2.50	$20,000 00
For 1,500 cords of wood, at $4.66⅔	7,000 00
For one lot of lumber, consisting of staves, headings, pickets, &c	10,000 00
For 1 pair of carriage-horses	1,000 00
For 3 riding-horses	900 00

For 4 mules, at $300	1,200 00
For 30 hogs, at $30	900 00
For 5 choice milk-cows	375 00
For 20 head of beeves	500 00
For 1 lot of poultry	100 00
For fencing on plantation	6,000 00
	47,975 00

The evidence as to the property taken comes from the following witnesses:

1. William C. Smith, who testifies that in 1863 and 1864 he was a pilot on steamboats plying on Red and Mississippi Rivers, and that Mr. Hebert sold wood and split lumber on the bank of Bayou Plaquemine and raised corn on his plantation; that the price of wood was high at the time the Federal troops occupied that country—from $6 to $10 per cord.

2. John A. Dardenne, who testifies that he resided near Mrs. Hebert in 1863; that then she resided on her plantation, and that General Paine's command encamped near it; that she had stock on his (Dardenne's) place, which was taken by officers detailed for that purpose by General Paine; that wood was then selling at $7 per cord and corn for $1.75 to $2 per bushel; that he "thinks the troops must have taken from them, as their plantation was the first to their camp."

3. Louis Thomas, who testifies that he knew Mrs. Hebert's plantation; that about 180 acres were cultivated in corn; that on it, in 1863, were about 125 head of stock and about $10,000 worth of lumber, including headings, staves, and pickets; that details from General Paine's brigade and Perkins's cavalry, from Baton Rouge, took articles from the plantation; that 5 horses, 8,000 barrels of corn, 1,500 cords of wood, and about 125 head of other live-stock were taken; that Major Alcott, of Paine's brigade, returned the cows to Mrs. Hebert, but that another officer from the same brigade took them the next day, stating that he had orders to do so, and that if she wanted to get pay for them she must apply to the United States Government.

4. Willis Peterson, who testifies that he does not know how many head of live-stock nor how much lumber there was on the plantation, but that there was a good deal; that detachments from Paine's brigade and Perkins's cavalry took produce and live-stock from the plantation; that 8,000 barrels of corn and 1,500 cords of wood were taken at different times, as the troops required.

5. Louis Martin, who testifies that he knows Mrs. Hebert, and knows that she owned in 1863 the plantation aforesaid; that he saw the corn and wood taken (as stated in the depositions of Thomas and Peterson); that General Paine took milch-cows, sheep, mules, hogs, corn, and wood, and referred Mrs. Hebert for her pay for the articles so taken.

6. Sarah Martin, who testifies to the same effect as Louis Martin.

7. Edward Moore, who testifies that Mrs. Hebert had a plantation on Bayou Plaquemine in 1863; that he knows she owned very fine horses; that the stock was all valuable; that depredations were committed on said plantations, but by what companies of troops of the United States, or by whom commanded, he knows not, and knows nothing whatever of the circumstances.

8. E. A. Teller, who testifies that Mrs. Hebert had a plantation in Louisiana in 1863; that on it were 5 horses, 5 or 6 mules, 5 cows, a large drove of sheep, hogs, and beeves, and about $10,000 worth of lumber, staves, headings, and pickets. He also testifies that there were depredations committed on said plantation by United States troops *during* the year 1863; that all the property needed for the use of the

troops was taken; that the wood and two years' crop of corn were taken at intervals, as the troops required them; that he lived on the place and saw the drepredations committed.

9. John H. Alcott, who testifies that he was captain in the One hundred and thirty-third Regiment, New York Volunteers, which was in Paine's brigade; that about 4,000 troops were encamped near Mr. Hebert's plantation; that cord-wood was taken from said plantation by the troops for fuel, and lumber for flooring the tents—the ground being very damp from overflow—with the knowledge and by the authority of the officers; and that said wood and lumber were necessary for the troops.

10. Philip Morris, who testifies that he knows Mrs. Hebert; that he was on the plantation when the alleged depredations were committed, and that to his personal knowledge all the facts and statements connected with and made by Mrs. Hebert in the premises are true and correct, and that the values placed on the articles enumerated as appropriated and destroyed are equally true and correct.

11. Louis Martin (who may be the same witness before referred to), who testifies that he "was present when the alleged depredations on the plantation of Mrs. Hebert, as recited in her petition, were committed, and that in sum, substance, and correctness the petition represents faithfully all the facts of the premises; that he saw the depredations committed, and that the figures placed on the articles are correct."

12. Louis Thomas,

13. Elias Peterson; and,

14. Sarah Thomas, who all testify substantially like Louis Martin in his last affidavit.

15. William J. Woodruff, who testifies that General Paine's command built their quarters from the lumber on Mr. Hebert's plantation and used all the wood that was on the place, and took the corn and hay to feed horses and stock; that Major Alcott drove off Mrs. Hebert's stock from Mr. Dardenne's place, and that Captain Perkins drove off the horses.

16. J. O. Malaison, who testifies as to the value of lands and wood on Bayou Plaquemine.

17. Mrs. E. E. Hebert, the claimant, who testifies that she and family lived in 1863 on said plantation; that the live-stock was taken and driven away; that the corn and wood were taken at different times as needed. That after the war she "never knew until 1873 that claims were being paid, and that as soon as she found it out she went immediately to Washington, and was too late to enter it in the Southern Claims Commission, as she was unable to gather up the witnesses."

As to her loyalty she testifies as follows: "We were constantly having officers and soldiers visiting our place. During my absence from home there was a large quantity of soldiers and their officers, and they consumed all the groceries I had on hand."

The witnesses to loyalty are the following:

1. William Woodruff, before mentioned, who testifies that he "knows Mrs. Hebert was strictly loyal and a Northern woman."

2. A. W. Weaver, who testifies that he personally knows Mrs. Hebert; that he "first met her in the summer of 1863; that he often visited her then in company with other United States officers at her plantation; that he frequently met this lady, and that, to the best of his knowledge and belief, she was loyal; that he knows nothing to the contrary, and, in fact, never heard her loyalty questioned."

3. Louis V. Roubion, who testifies that he first became acquainted with Mr. Hebert in 1860, when he (Roubion) was employed in Victor

Hebert's store in New Orleans; that Jules J. Hebert, in 1860, 1861, and during the war, was loyal to the Government of the United States, and was known as a Union man, and was treated as such by the Federal forces, and that he was granted by them a permit to trade and traffic at Plaquemine, which he could not have obtained unless he had been at that time a Union man.

4. L. A. Sheldon, who testifies that on November 21, 1863, he commanded a brigade which then took possession of Plaquemine, where he remained about four months; that he knew Jules J. Hebert, who received a permit to trade at Plaquemine; that said Hebert was reputed a loyal man, and that he was said to have had trouble with the Confederates in consequence of his Unionism; that he believes Mr. and Mrs. Hebert were really loyal people, although personally he knew nothing on the subject whatever until some time in the latter part of November, 1863.

5. Thomas J. Durant, who testifies that he knew Mr. Jules J. Hebert as early as 1844; that Hebert in 1849 left New Orleans for Saint Louis; that he did not see him again till the winter of 1862–'63, when Hebert expressed to him loyal sentiments; that from that conversation, and from what he knew of Hebert's character, he believes he had always been a Union man; that in Iberville Parish, where Hebert lived, he could not have been openly a Union man without endangering his life.

6. John H. Alcott, before named, who testifies that, from all he could learn when encamped near Mr. Hebert's plantation, he was always a loyal man and devoted to the Union cause from the beginning of the war.

In addition to this testimony, General Banks certifies by letter that a permit to trade would not have been granted to Mr. Hebert had he not been believed to be a loyal man, and several prominent citizens of New Orleans, including Louis A. Wiltz and Governor Kellogg, certify to Mr. Hebert's loyalty.

It appears from the records of the Southern Claims Commission that on the 24th day of January, 1873, Mrs. Hebert filed a claim there, amounting to $23,000, "for 8,000 bushels of corn, 500 cords of wood, 100 chickens, 200 turkeys, 30 hogs, 5 cows, 8 oxen, 5 horses, 4 mules, and an undetermined quantity of lumber, charged at $5,000." That was before the assignment to her, and of course she had no valid claim. At that time Mrs. Hebert named only Celestine and Sarah Martin, and Achille and Lizzie Lewis (all colored), as witnesses by whom she could prove the facts necessary to make out her claim. No evidence was ever taken to support the claim before the Southern Claims Commission.

Mrs. Hebert has filed in the Senate Committee on Claims her own affidavit, in which she testifies that her husband was very dissipated, and entirely neglected his business; that in filing her claim before the Southern Claims Commission she had no legal adviser; that she meant to have it cover only half of the property taken which she believed to belong to her; that her husband stopped the prosecution of the claim in that tribunal and gave her an assignment after the divorce. No explanation is given for the non-production of vouchers or receipts.

The reason assigned in the testimony of Mrs. Hebert, the petitioner, why the claim was not filed by her husband before the Southern Claims Commission within the time, in addition to the fact already stated that he was very dissipated, is that he had been informed that the officers, General Paine, Major Alcott, and Captain Perkins, from whom he could *gain proof*, were killed at the battle of Port Hudson. It is further

stated that Captain Perkins was killed at that battle; that General Paine, although not killed, did lose his leg in that battle, and lie as dead on the field for several hours, giving credit, as it is stated, to the report that he was dead; and the petitioner did not know the fact to be otherwise until she reached Washington and met General Paine here, who informed her of these facts. Mr. Jules Hebert makes affidavit, stating the same reasons in detail. This claim was before this committee in 1875, at which time an adverse report was made partly on the ground that no sufficient reason was shown why the claim had not been presented to the Southern Claims Commission; also upon the further ground that it appeared that the petitioner's husband was living at the time the supplies claimed for were taken from the plantation, and there was no evidence given at that time to show in whom the legal title to that plantation was vested, or to show whether her husband was, or was not, loyal to the government. Since that report was made additional evidence has been presented showing—

First. That the petitioner was divorced from her husband on the 10th day of December, 1871.

Second. That on the 9th day of January, 1874, her husband made a full and unconditional assignment to the petitioner of all his claims to the claim now presented.

And, third, testimony showing very clearly the loyalty of both petitioner and her husband during the late war; also the additional statements made in this report as reasons why the claim was not presented to the Southern Claims Commission.

In the Forty-fourth Congress, first session, the Committee on War-Claims of the House, through Mr. Conger, made a favorable report, allowing the petitioner the sum of $21,090, and reported a bill for that amount, which passed the House and came to the Senate. On a reference to this committee, Senator Wadleigh made a favorable report on the House bill, which was adopted by the committee, and from which report copious extracts are herein made.

After a careful examination of the evidence, this committee recommend the passage of the accompanying bill.

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45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 204.

IN THE SENATE OF THE UNITED STATES.

MARCH 27, 1878.—Ordered to be printed.

Mr. TELLER, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill S. 1000.]

The Committee on Claims, to whom were referred the petition and accompanying papers of George M. Hazen, of Tennessee, have had the same under consideration, and make this report:

This claim of G. M. Hazen is for rent of building for officers and a stable in Knoxville, Tenn., from August 1, 1865, to December 15, 1865.

A voucher was given Hazen for $175 by the captain and assistant quartermaster, and the voucher was approved by command of Major-General Stoneman. It was reported to the office of the Quartermaster-General at Washington, and it appears that the contract for rent was neither allowed nor disallowed.

The premises having been occupied under a contract made by the assistant quartermaster, and duly reported to the department at Washington, and not having been disapproved, and the account and renting having been approved by General Stoneman, the committee think the claim should be allowed, and therefore report the accompanying bill.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 205.

IN THE SENATE OF THE UNITED STATES.

MARCH 27, 1878.—Ordered to be printed.

Mr. BRUCE, from the Committee on Pensions, submitted the following

REPORT:

[To accompany bill S. 246.]

The Committee on Pensions, to whom was referred the bill (S. 246) to correct commencement of renewal of pension of Anna Brasel, widow of David Brasel, &c., have had the same under consideration, and report:

It appears from the papers in this case that Mrs. Brasel was granted a pension of $4 per month for a period of five years, from July, 1836, under an act of Congress of that date, on account of the services and death of her husband in the Indian war of 1827. Subsequent acts extended the provisions of the act of 1836 for successive periods of five years, until an act of June, 1858, granted to the widows of soldiers a pension during life. The claimant did not, however, apply for pension except for the period covered by the original act of 1836, until she, in 1871, renewed her application to be placed upon the pension-rolls. Her claim was allowed, the pension beginning in 1871, the date of her application.

The claimant excepted to the construction of the law, that denied her arrearage of pension, by fixing the date as aforesaid, and alleged that under the proviso of the 19th section of act of March 3, 1873, the widow's claim was excepted from the operation of the section itself, and that she was, therefore, entitled to arrears of pension from the date of this last payment, viz, July 4, 1841. An appeal was taken from the decision of the Commissioner of Pensions to the Secretary of the Interior, and the action of the Commissioner was sustained on the ground that the proviso relied upon by the claimant as the basis of her claim was intended to apply, not to cases of renewal, but only to original applications. This construction of the act of 1873, under which the name of claimant was placed upon the roll of pensioners, seems to be sustained by the precedents and previous decisions of the department.

There does not appear, from the evidence presented, any sufficient reason to make an exceptional case in this instance, and the committee would, therefore, ask to be discharged from the further consideration of the bill, and that it be indefinitely postponed.

O

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 206.

IN THE SENATE OF THE UNITED STATES.

MARCH 28, 1878.—Ordered to be printed.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill H. R. 536.]

The Committee on Post-Offices and Post-Roads, to whom was referred House bill 536, having had the same under consideration, report as follows:

That from evidence submitted, and from the report of the specia agent of the Post-Office Department, the fact is established that the post-office building at Fulton, Ill., was entered by burglars on the morning of the 26th of March, A. D. 1875; that an explosion occurred by which the safe was blown in pieces, the building fired, and, with contents, totally destroyed.

The petitioner, William C. Snyder, claims the following amounts as the items of United States property lost, and for which his account as postmaster should be credited in the office of the Post-Office Department.

For postage-stamps and stamped envelopes, $381; for money-order vouchers paid by petitioner, $175; for mutilated currency taken for stamps, $40; for change in change-drawer, $30.

The evidence shows that the postage-stamps and stamped envelopes were in a fire-proof safe, and the money-order vouchers in the money-order case.

The Third Assistant Postmaster-General has reported to the committee that, from estimates made in the department, the amount of loss claimed for destruction of postage-stamps, stamped envelopes, and money-order vouchers is not unreasonable.

It appears that due care and diligence was used as to the security of this portion of the government property, and there is a reasonable certainty as to its absolute destruction by fire. Your committee therefore recommend that the said postmaster, William C. Snyder, be credited in his accounts with the department for stamps and stamped envelopes destroyed, $381, and for money-order vouchers lost, $175.

It is shown that the mutilated currency and change claimed as post-office funds, and amounting as stated to $70, was not placed in the safe.

The means of properly securing the money of the government in the hands of postmasters are various, and the proof of actual amount of loss by fire or theft is often difficult to be established. Your committee are of the opinion that, for this and other reasons, good policy requires that postmasters should be held responsible for money losses in cases similar to the one under consideration, and that the said claim for loss

of money to the amount of $70, as recited in the prayer of petitioner, should be rejected.

It is therefore proposed to amend the bill by striking out in line 9 the words "four hundred and fifty-one" and inserting *three hundred and eighty-one*, and by striking out in line 12 the words "and funds of the United States stolen." And your committee recommend that the bill as so amended be passed.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 207.

IN THE SENATE OF THE UNITED STATES.

MARCH 28, 1878.—Ordered to be printed.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill H. R. 2293.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 2291) for the relief of Thomas W. Collier, have considered the same, and report:

That the post-office at Coshocton, Ohio, was robbed by burglars on the night of the 22d of May, 1877.

The report of the special agent of the Post-Office Department certifies that he visited the office immediately after the robbery, and that the means which had been taken to secure the property of the government were better than usually found in offices of a similar class. He states, with regard to the fact of the robbery, that "it was easy to see that the safe was blown open by professional burglars."

T. W. Collier makes affidavit that he was the regularly appointed postmaster at Coshocton at the time of the burglary; that there was deposited in the safe in the post-office at the time the burglary was committed postage-stamps of the value of $795.15, of money-order funds the sum of $143.87, and of postage-stamp funds the sum of $147.50, and that all of the same was stolen.

The deputy postmaster, James N. Collier, corroborates the testimony of the postmaster as to the facts of the burglary and the amounts stolen.

Amelia D. Hackinson, clerk in the office, likewise supports by her testimony the facts herein recited, with the exception that she cannot state the amount of the postage-stamp funds claimed to have been lost.

The Third Assistant Postmaster-General replies to the inquiry of this committee that the books of the department would indicate the probable correctness of the statement of the amounts of postage-stamps and stamp-funds in the hands of the postmaster at Coshocton at the date of the burglary, and that the amount of money-order funds in his hands at the same time was thirty cents less than stated in the affidavits.

In view of the evidence presented, your committee recommend that relief be granted the petitioner for the postage-stamps and money-order funds stated.

In relation to the money claimed to have been in his hands arising from the sale of postage-stamps, your committee is of the opinion that good policy requires that postmasters should be held responsible for a loss of this class of funds, the amount of which can rarely, if ever, be verified with exactness.

In accordance with the foregoing it is proposed to amend the bill as

follows: Strike out all after the word "of" in line three to the word "cents" in line four, and insert in the place thereof the words "nine hundred thirty-eight dollars and seventy-two," and strike out in line five in the said bill the words "postage-stamp funds," and your committee recommend the passage of the bill as so amended.

O

45TH CONGRESS, 2d Session. } SENATE. { REPORT No. 208.

IN THE SENATE OF THE UNITED STATES.

MARCH 28, 1878.—Ordered to be printed.

Mr. BURNSIDE, from the Committee on Post-Offices and Post-Roads, submitted the following

REPORT:

[To accompany bill H. R. 2884.]

The Committee on Post-Offices and Post-Roads, to whom was referred the bill (H. R. 2884) for the relief of Samuel Canfield, postmaster at Seymour, Conn., having had the same under consideration, submit the following report:

Samuel H. Canfield was postmaster at Seymour, Conn., and on the 30th day of March, 1874, a large iron safe in his office was blown open by burglars, and money-orders to the amount of $158.76 and postage-stamps amounting to $193.36 were stolen therefrom. No part of this property has ever been recovered.

Investigations were made by the authorities of the Post-Office Department. Letters and reports from the special agent of the Post-Office Department dated April 9, 1874, and from the Third Assistant Postmaster-General dated January 23, 1875, and a second letter from the same source, dated March 1, 1876, and from the Auditor of the Treasury for the Post-Office Department dated December 17, 1877, show that the amount of funds as stated in the bill is correct; that all due diligence and caution was used in the care and protection of the funds; that the accounts of Mr. Canfield have been settled with the department, and that he was not indebted to the United States at the time of of the date of the letter of the Auditor of the Treasury for more than the amount the current business of his office required.

Your committee therefore recommend the passage of the bill without amendment.

45TH CONGRESS, 2d Session. | SENATE. | REPORT No. 209.

IN THE SENATE OF THE UNITED STATES.

APRIL 1, 1878.—Ordered to be printed.

Mr. EATON, from the Committee on Appropriations, submitted the following

REPORT:

On the 24th day of January, 1878, the following resolution was adopted by the Senate:

Resolved, That the Committee on Appropriations be directed to examine into the affairs of the Freedmen's Hospital of the District of Columbia, and ascertain its condition and general management; and that they call upon the Secretary of the Interior and request from him such information as he may have relating to its general management, and economical administration, and that they make such further investigations into all its departments as in their judgment the public interests may require.

In accordance with said resolution, the Committee on Appropriations authorized a subcommittee to make the investigation contemplated by the resolution, consisting of Mr. Sargent, Mr. Allison, and Mr. Eaton.

The subcommittee proceeded with this labor, called upon the Secretary of the Interior for such information as he had on the subject, and took the testimony of witnesses covering three hundred and five printed pages and an appendix, which are herewith submitted, and having reported in writing their conclusions to the full committee, with the testimony, the same were adopted by the committee, which authorized them to be presented to the Senate as the report of the Committee of Appropriations.

In response to the request made to the Secretary of the Interior for such information as he might have relating to the general management and economical administration of the hospital, the committee received two reports made by special committees appointed by the Secretary within the year, with voluminous testimony taken by the second of said committees, letters, schedules, affidavits, &c. The first investigation was made by a committee consisting of one employé of the Treasury and two of the Interior Department, who were instructed to investigate and report in relation to the financial operations of the institution. The report of this committee was filed in August, 1877, and commended the financial conduct of the institution under Dr. Palmer's administration, and approved his conduct of his trust. The committee said:

The books and papers of the hospital for several years were carefully examined, and appeared to be perfectly correct.

The committee ascertained that no money is handled at this institution. All purchases are made by the surgeon in charge, in open market, under full and free competition, at the lowest attainable rates. All stores are weighed on receipt, and properly cared for until consumed. The patients are well fed with wholesome, well-prepared food, the bread being of excellent quality.

The committee learned that the bread is not made on the premises, but flour is exchanged for bread, pound for pound. This practice should be stopped, in the opinion of the committee, and it recommends that an appropriation be asked of Congress to establish a bakery on the premises.

Invoices of all purchases are certified to by the surgeon in charge, and paid by the disbursing clerk of the Department of the Interior. Clothing is issued on a requisition

of the surgeon in charge, a considerable portion of which is made up by patients, and a strict account of it kept in a "clothing-book."

The committee sees no particular cause for recommending any alteration in the manner of keeping the books and papers of the hospital, except as to property accountability. An account of stock should be taken, and a property account kept; and the committee recommends that a board of survey be appointed to inspect and condemn certain worthless articles, such as old worn-out blankets, &c., that they be at once disposed of, and that said board of survey should meet quarterly, say on the first Monday in January, April, July, and October in each year, for said purpose.

The committee learned that no clerk is allowed the hospital by authority of law; the person employed seems to do his duties in a clerical manner, receives $50 per month for his services, and the surgeon in charge reports him a "laborer."

The committee was shown through the various wards, offices, store-house, &c., of the hospital by Dr. Palmer, and is unanimous in its approval of his conduct of his public trust.

A few days after the filing of the report of this committee, stating that it had personally inspected the various wards, offices, store-houses, &c., of the hospital, that "the patients are well fed with wholesome, well-prepared food, the bread being of excellent quality," and that "all purchases are made under full and free competition, at the lowest attainable rates," various charges were filed in the Interior Department, signed by a colored patient named Robert T. Johnson, alleging that bad food was given to patients, insufficient in quality and badly cooked; that the wards and water-closets were kept in a bad condition; that patients were neglected by the physicians and nurses; that supplies for the hospital were bought at high prices of retail dealers, &c. These charges will be found at length on pages 28, 29, and 30 of the testimony, and the reply of the surgeon-in-chief thereto on pages 30, 31, 32, 33, and 34. On these charges the Secretary of the Interior appointed a board consisting of Dr. T. B. Hood of the Pension Office, Dr. George C. Ewing of the Secretary's office, and Dr. J. K. Walsh of the General Land Office, with instructions to examine into the condition and conduct of the Freedmen's Hospital, especially as to the truth or falsity of the allegations set forth in Johnson's charges. It was ordered that—

The board will proceed with the examination as soon as practicable, and will be allowed free access to any and all such books, papers, records, and rooms of the hospital as may be necessary to the purposes of the examination, and will also be allowed to take the evidence of officials, employés, or inmates of the hospital under oath, as prescribed by section 183 of the Revised Statutes.

Upon completion of their examination the board will make report in writing to the Secretary of the Interior, together with such suggestions or recommendations as may be deemed advisable.

The proceedings of the board will be conducted in secret sessions.

Acting under these instructions to investigate and report their conclusions, and whatever suggestions and recommendations they might deem advisable, the board entered upon their labors. The board was excellently constituted for its purpose, it being composed entirely of physicians, presumably learned in diseases and familiar with hospitals, and its conclusions, after weeks of personal inspection and patient examination of witnesses, have a value which could hardly be asserted of any report made by non-professional investigators. As this report sets out the charges in detail, and as it is the work of physicians who were afforded every facility by the Secretary of the Interior and surgeon-in-chief to obtain correct views of the management of the hospital, we here insert it:

DEPARTMENT OF THE INTERIOR,
Washington, D. C., November 13, 1877.

SIR: The board constituted by your order of 24th September last "to examine into the condition and conduct of the Freedmen's Hospital, especially as to the truth or falsity of the allegations set forth in the charges and specifications under date of Au-

gust 25, 1877, and signed by Robert T. Johnson," has the honor to submit the following report upon the charges and specifications signed by Robert T. Johnson, dated August 25, 1877:

SPECIFICATON FIRST.—"In that said Palmer provides the patients in said hospital revolting food measured out to each in quantity insufficient to satisfy hunger; the provender is execrably cooked and especially unfit for invalids, whose condition requires good, palatable, and nutritious food. Beeves' heads and legs, oftentimes putrid, chopped up and concocted into odious messes; pickled pork and beef, saturated in brine from time immemorial till it becomes semi-petrified and rusty; ancient mackerel, corroded with salt and nauseating in smell; sour bread and musty hominy; a solitary potato in its jacket, about the size of a hen's egg, allotted each patient at dinner, and insipid slops nominated coffee and tea, constitute, in substance, the regular diet of the institution, and the meals served in the mess-room do not actually cost more than seven cents per day for each patient.

"Superannuated, slovenly, and unskillful persons are employed as cooks at four dollars per month for the services of each, and such culinary botches could not fail to spoil the best of viands if intrusted to them to prepare for the table; but with inferior provisions such as said Palmer supplies, they produce detestable messes that are not fit for any human being to eat."

The statements contained in this specification are not sustained by the facts; the quantity of food furnished has been amply sufficient, its quality good, and the cooking found to compare favorably with the average of hospitals.

Accompanying marked "6" is the "full diet" table of Seminary Hospital, Georgetown, D. C., given as a standard in the Hospital Steward's Manual, page 194, and marked "7" the "full diet" table of Freedmen's Hospital.

From January 1 to October 31, 1877, the average quantity of bread furnished each inmate has been one pound per day, of meat 21¾ pounds per month, of milk 1⅛ gallons per month, together with a sufficient quantity of sugar, coffee, rice, hominy, butter, eggs, &c. The tables marked 8, 9, 10, and 11 give an idea of the quantity and variety of food furnished this hospital from July, 1874, to October 31, 1877.

In addition an "extra diet" is supplied, and consists of such lighter articles of food and delicacies as may be directed by the attending physicians; this was found of considerable variety, well adapted to the needs and cravings of sick people, and furnished to a very large proportion of the inmates.

The appropriation for subsistence for fiscal year ending June 30, 1878, is $18,000; which gives an average of about 20 cents per day for each inmate.

SPECIFICATION SECOND.—"In that under said Palmer's management, the bath-room and water-closets attached to the male wards of said hospital are kept in an offensive condition; slops are emptied therein, and filthy utensils, used by the sick, are washed in the bath-tub in which the patients of the respective wards bathe, whereby they are exposed to imminent danger of contracting terrible diseases, and malaria is liable to be generated by the foul odors and decomposing matter therein that poison the atmosphere."

It was found by personal inspection that the bath-rooms, water-closets, &c., were in as good condition as could be expected, especially when the plan of the hospital buildings and character of the inmates are taken into consideration.

SPECIFICATION THIRD.—"In that, under said Palmer's management, the furniture, fixtures, and utensils in the wards are dilapidated, uncomfortable, mean, and unsuited for service; that the bedsteads, beds, pillows, sheets, blankets, spreads, chairs, tables, and other articles were transferred to said hospital by the government or sanitary commission when the Army hospitals were abandoned at the close of the late war, and have been in constant service and received severe usage for more than ten years; that the beds, bedding, and wainscots of the walls are infested with multitudinous and repulsive vermin of various kinds, and no proper effort is made to destroy them, and that the entire furniture and equipments of any one ward would not sell for the sum of one hundred dollars."

The board find that the bedsteads are of the style and character employed in Army hospitals, and have probably been in use for many years, but are still serviceable; that the beds and bedding have been changed from time to time as necessity has required; in that worn-out mattresses have been replaced by new ones manufactured in the hospital, and blankets purchased in such quantities from year to year to replace old ones as the appropriations would allow.

It was found upon inspection that a portion of the beds and bedding were old and worn, but it is believed that they are as good as the appropriation will allow, and such as would ordinarily be found in hospitals.

It is undoubtedly true that vermin of a certain class do exist in the beds and wainscoting of the walls, but it was not found that they existed in excessive numbers when the character of the inmates and their associations are considered. Proper measures we believe have been taken, under the instructions of the surgeons of the wards, to abate this nuisance as far as practicable, but it must be taken into consideration that

the buildings are of such construction as to afford lodgment to certain classes of vermin, such as bed-bugs and water-bugs, which could be destroyed wholly and successfully only by the destruction of the buildings themselves.

SPECIFICATION FOURTH.—"In that, under said Palmer's management, patients afflicted with contagious, infectious, and loathsome disorders are commingled promiscuously in the wards with the other patients, who are thus exposed to the dangers of contracting terrible maladies, whereas the patients so afflicted should be classified and congregated in private rooms, of which there is an abundance in said hospital, and thus be isolated from the other patients, who would be secured immunity from harm from that source."

Patients suffering with the ordinarily so-called "contagious" diseases are not admitted to this hospital. The inmates may be divided into two classes—one comprising those not properly inmates of a hospital, but of an asylum, consisting of the old, decrepit, infirm, insane, idiotic, &c., and this class, it is understood, constitute a kind of legacy from the old Freedmen's Bureau, and have been maintained in the hospital from its inception. The remaining class represent most of the non-contagious maladies, and since they are necessarily commingled in the wards, it cannot be otherwise than that they subject each other to annoyance and inconvenience. We were not able to find an abundance of private rooms, nor indeed any which could properly be assigned to private patients; such rooms in connection with each ward being intended for and used by attendants, and for the isolation of an occasional patient suffering with what is properly a loathsome disease; in short, the hospital is not constructed with any reference to the isolation of inmates.

We have failed to learn of any instance wherein one inmate has communicated disease to another by reason of contiguity, and do not consider it probable that such should happen.

SPECIFICATION FIFTH.—"In that, through said Palmer's remissness, consumptive and asthmatic patients are quartered in the wards among the other patients, who are thus compelled to breathe an atmosphere contaminated with the exhalations from diseased lungs, and are deprived of their sleep and disturbed in their rest at night by incessant and painful coughing, hawking, and expectorating, which in pulmonary complaints are infinitely worse in the night-time than during the day; whereas such obnoxious patients could readily be isolated from the others by assigning them to private rooms, which, with a reckless disregard for the health and comfort of the patients, are permitted to be occupied by employés of the institution, or by persons that are comparatively well."

Consumptive and asthmatic patients were found commingled in the wards with other patients, but we do not believe that they could be assigned to private rooms or in any way segregated. The annoyances complained of have always been recognized as of the counterbalancing evils and inseparable from hospital life.

SPECIFICATION SIXTH.—"In that said Palmer has allowed private persons to keep three cows on the hospital premises at the government expense while he purchased from outside parties all the milk required for the use of the institution, yet the same number of cows belonging to the hospital could have been kept at the same cost and supplied the hospital with pure milk, whereby the government would have saved the large milk-bills that have been paid for that institution needlessly."

The evidence shows that the cows mentioned were not fed at government expense, and we do not think it would be practicable to keep a sufficient number of cows to supply the institution with milk. The pasturage on the limited hospital grounds would not be sufficient for one cow.

SPECIFICATION SEVENTH.—"Said Palmer permits the Howard University and the Howard mansion to be constantly supplied with water at the government expense; the tank on each of these buildings is daily filed with water pumped by the government engineer at said hospital, who runs the government engine for that purpose with government fuel, at an estimated cost of five dollars per day, and the sum of eighteen hundred dollars of public money is thus misused annually, to which extent the appropriation to said hospital is diminished. Such conversion of public property to private use is a grave offense that demands punishment of the offender and restitution to the government."

We find that at the time Dr. Palmer assumed charge of the Freedmen's Hospital a lease existed between the former surgeon-in-chief (Dr. R. Reyburn) and Howard University, in which, among other rights reserved to the said university, it was agreed that the engine located on the Freedmen's Hospital grounds, but belonging to the university, should be used "to pump water to the main buildings of Howard University one hour per day (Sundays excepted)." Copy of lease herewith marked "13." In making a new lease, July 19, 1875 (copy herewith, marked "14"), which was approved by the honorable Secretary of the Interior in communication to Dr. Palmer, under date of July 22, 1875, the same agreement was made as to the use of the engine to pump water to the main buildings of Howard University.

The expense incurred by compliance with this provision of the lease does not exceed eighty ($80) dollars per annum.

SPECIFICATION EIGHTH.—"Said Palmer has done grievous harm to the inmates of said hospital by abrogating the custom of employing a night-nurse for each ward, but compelling one man during the night to take charge of two wards containing at least sixty patients, and also attend to four fires in cold weather, which onerous duties cannot be properly discharged by a single individual. Hence patients, in severe cases, suffer intensely from neglect, and disturb the other patients by their cries for succor and relief, while the dying are abandoned to their fate, and suffered to expire in darkness and gloom, without care, solace, or sympathy, and are hustled out of the ward to the dead-house as soon as the vital spark is extinguished."

The testimony fails to show that Dr. Palmer has abrogated any custom heretofore existing in the employment of night-nurses. The same number and the same individuals, with one or two exceptions, are employed now as under former administrations of the hospital. It is true that comparatively a small number of night-nurses are regularly employed, but it is expected, and properly so, that convalescents and others should, in emergency, furnish the extra help needed. In the wards which are occupied by the old and infirm only, no necessity exists for the employment of permanent night-nurses, and in the wards where needed a sufficient number of such nurses are, in our opinion, employed, and we failed to discover any instance of neglect of the dying by reason of insufficiency of such help.

SPECIFICATION NINTH.—"In that, under said Palmer's management, goods, wares, and merchandise required for said hospital have not been purchased as far as practicable on contracts awarded to lowest responsible bidder after public advertisement, as is the custom with the War and Navy Departments, and in every well-regulated government institution, but have, to a great extent, been procured from retail dealers in small quantities from time to time, as the immediate exigency demanded, whereby articles of inferior quality were obtained at high prices, the public money was squandered, and the hospital failed to receive the full benefit of the appropriations granted it by Congress."

It is found, from examination of the bills for supplies, that the prices paid were generally fair and reasonable; for some few articles probably higher prices have been paid than the lowest wholesale market-prices; these articles were few in number, and taking the purchases altogether it is doubtful if the supplies could have been obtained more advantageously to the hospital.

The principal exception to this statement is found in the bills of Charles Fink & Co., in which the prices are somewhat higher than the prevailing rates. The attention of Mr. O. S. B. Wall (the principal member of the firm) was called to this by letter from Dr. Palmer, dated October 7, 1876 (copy herewith, marked 49).

The price paid for milk was the subject of consideration, and it was explained on the ground of the high standard of excellence, and moreover that the price had been reduced until it was now very considerably lower than under former administrations.

SPECIFICATION TENTH.—"The legitimate expenses of said hospital, as conducted under its present management, do not exceed twenty-five thousand dollars per annum, and all money beyond that sum drawn out of the Treasury has been misused, squandered, embezzled, or purloined. Through such perversion or abstraction of appropriated funds the government is alleged to have been plundered and the hospital defrauded to the amount of one hundred and fifty thousand dollars during the past five years, while the members of the medical staff, managers of the institution, have been raised from limited means to affluence, become the owners of valuable real estate, and fare sumptuously every day at the expense of the poor and the sick, the maimed and the dying, for whom Congress made liberal provision, if the public bounty had been honestly and judiciously administered for the sole benefit and behoof of the beneficiaries, and not for the individual profit and aggrandizement of the functionaries, to whom the execution of the trust was confided."

The vouchers on file at the Interior Department and the evidence adduced furnish sufficient proof that the full amount appropriated for this hospital has been expended for the purposes for which it was intended, and none other; and not a particle of evidence has been presented to show that any portion of the several amounts annually appropriated has been "misused, squandered, embezzled, or purloined." Nor has the board been able to procure any evidence that the "medical staff, managers of the institution," have in any way benefited from their connection therewith except in the legitimate manner provided by law.

SPECIFICATION ELEVENTH.—"Under said Palmer's management, lunatics, idiots, blind persons, and able-bodied paupers are permanent inmates of said hospital, instead of being consigned to the institutions specially established for the reception of such unfortunates. Said hospital is a sanitary institution, created solely for the accommodation, care, and treatment of invalids, and the presence of these intruders among the patients is detrimental, repugnant, and dangerous to them. These individuals, moreover, occupy much room in the wards which ought to be appropriated to such persons as require medical and surgical treatment, many of whom are crowded out of said hospital by these objectionable inmates; the expense of supporting these creatures is a misuse of the money

appropriated for the maintenance of said hospital, and the patients, to that extent, are deprived of their rights and property. The lunatics and idiots are not treated as patients in charge of nurses, but are consigned to the custody of keepers, who frequently beat them and reduce them to subjection by fear and violence. They are clothed in rags, are filthy in their habits, and subsist on refuse and slops. These obnoxious persons are alleged to be domiciled in said hospital for the purpose of augmenting the total number of inmates in order that the maintenance of said hospital may plausibly be represented as costing more than is actually expended for its support."

This specification is based on a total misapprehension as to the spirit of this institution as well as of the facts; from the outset the blind, decrepit, old, idiotic, and insane indigent have been admitted to its privileges as well as those needing medical and surgical treatment; and although few of the former class have been admitted in latter years, yet the board do not find any provision of law excluding them. It is to the class of permanent inmates that clothing is issued regularly, and it has not been found that any of them have suffered from lack of proper supply; to the transient patients it is issued only where essentially necessary, but in no case have we found it withheld from them except for good and sufficient reasons.

It is very difficult, by reason of the mental condition of some of these inmates, to keep them properly clad, but, from a personal inspection and the evidence adduced, we are satisfied that in every respect they are as well cared for as possible under the circumstances; and as to being subjected to personal violence and abuse, it was found that but in few instances has force been used in correcting them, and the circumstances appear to have justified the course pursued.

SPECIFICATION TWELFTH.—"Since the commencement of the fiscal year, on the 1st day of July, 1877, three surgeons have been officially connected with said hospital, notwithstanding the appropriation act makes provision for the employment of two surgeons only for the current year. If these three surgeons have received compensation for their services at said hospital since July 1, 1877, the payment to one of them was unauthorized and illegal, the public money to that extent was misused for that purpose, and the money appropriated to said hospital was squandered to the amount of such disbursement. If, however, one of said surgeons continued his professional connection with said hospital and treated its patients without receiving any salary or compensation from the appropriation, it is palpable that he derives a profit out of the institution equivalent in value to his services, inasmuch as these surgeons are not so disinterested and philanthropic as to professionally treat poor, friendless, uninfluential invalids without pecuniary reward. Either circumstance evinces official malfeasance, unscrupulous greed, and flagrant betrayal of a sacred trust in the management of said hospital and its executive officers."

It was found that prior to June 30, 1877, there were employed in this hospital five medical officers, to wit:

Dr. G. S. Palmer, surgeon-in-chief, salary $2,400 per annum.
P. Glennan, executive officer, salary $2,100 per annum.
C. B. Purvis, house physician, salary $2,100 per annum.
A. T. Augusta, ward physician, salary $1,200 per annum.
C. Goerner, dispensary clerk, salary $1,080 per annum.

Since that period, with the exception of the month of July, when Dr. Goerner was still borne upon the rolls, there have been employed three medical officers, viz:

Dr. G. S. Palmer, surgeon-in-chief, salary $1,400 per annum.
Dr. P. Glennan, assistant surgeon and dispensary clerk, salary $1,200 per annum.
Dr. C. B. Purvis, house physician, paid $150 for July; and since, at the rate of $1,400 per annum.

The salaries of Drs. Palmer and Glennan are fixed and provided for in the act making appropriation for the hospital for the fiscal year ending June 30, 1878.

The manner of paying Dr. Purvis is explained in Dr. Palmer's written testimony (marked 5), by drawing upon a fund which has accumulated to the credit of the hospital in the shape of a hospital or surplus fund. This fund is in the hands of the disbursing clerk, Department of the Interior, and is drawn upon in the same manner as appropriated funds, and has always been held as a reserve fund to draw upon in emergencies, which is the case in the opinion of the surgeon-in-chief in this matter, he considering the services of three medical officers essential to the proper management of the institution; in which opinion we concur.

Upon the supplementary specifications signed by Robert T. Johnson, dated October 18, 1877.

SUPPLEMENTARY SPECIFICATION FIRST.—"Halls, lecture-rooms, dissecting-rooms, and private apartments, used or occupied exclusively by the Howard University Medical College, have been lighted and heated at the government expense out of the appropriation to Freedmen's Hospital, in contravention of law, since the first day of July, 1876, to the present time, through the procurement or with the knowledge of said Palmer."

The facts are that some months after Dr. Palmer assumed control of the hospital, to wit, July 19, 1875, he executed the lease heretofore referred to (marked 14), which was approved by the honorable Secretary of the Interior, July 22, 1875; under the terms of which certain rooms, &c., which had been in the occupancy of the medical department of Howard University were reserved to its use; and it was also agreed that these rooms, &c., should be heated and lighted at the expense of the government.

This lease expired June 30, 1876, and was not renewed nor, so far as we can ascertain or believe, were any of its provisions canceled. Dr. Palmer has continued to light and heat the said rooms in accordance with the terms of this expired lease, which, under the circumstances, it was his duty to do.

It might be explained that the lease referred to was simply in continuance of one which Dr. Palmer found in existence upon entering on the duties of surgeon-in-charge, and that he agreed to perform nothing new.

SUPPLEMENTARY SPECIFICATION SECOND.—"Furniture, fixtures, goods, and chattels, belonging to the government or purchased by it out of the appropriation to said hospital, have been placed in the halls, rooms, or apartments occupied by said medical college or the students thereof, or been used exclusively for the exercises, functions, benefit, or advantage of said college, in contravention of law, through the procurement or with the knowledge or sanction of said Palmer."

It is not found that any "furniture, fixtures, goods, and chattels belonging to the government or purchased by it," &c., are being used by the medical department of Howard University, with the exception of four stoves used in lieu of steam on the score of economy to carry out the agreement in lease as to heating these premises. (See Dr. Palmer's statement, marked 52.)

SUPPLEMENTARY SPECIFICATION THIRD.—"Students of the Howard University Medical College have been furnished with meals or board at the government expense, defrayed by money diverted from the annual appropriations to the Freedmen's Hospital. An exclusive table, denominated the 'students' table,' was regularly set in an apartment of said hospital, and was furnished and equipped in a proper and attractive manner, in marked contrast to the rude style and repulsive appearance of the patients' and nurses' tables. Choice meats, fish, vegetables, puddings, pies, fruits, and other delicacies were profusely supplied to the favored students, who were intruders at the hospital, and in no wise proper recipients of the government bounty. Students' meals were prepared especially for them by the best cook employed at the hospital, and served at fashionable hours, while the patients and hospital employés, on the contrary, were restricted to scanty and unsuitable food, odiously cooked and served, consisting, to a large extent, of bad provisions, offal, and tainted, putrid, and spoiled provisions, wholly unmerchantable, and the refuse or *débris* of the market. If said medical students paid for the meals or board which were provided for them at the government expense out of the hospital appropriations, it was incumbent on said Palmer to account for and dispose of the receipts in the manner provided by law, which this complainant is informed and believes was not done. If, on the other hand, said students were gratuitously furnished with such meals or board, then said Palmer has wasted, perverted, or misappropriated public property for private use, without compensation, in contravention of law, whereby the government was defrauded, the hospital injured, and the patients deprived of their rights, plundered of their money, and subjected to scanty or unfit sustenance, and the comfort and conveniences which invalids require."

It was found that it had been the custom of this hospital, since its organization, to employ medical students of Howard University as resident students, they performing services as assistants in dispensary, writers of clinics, and various other duties in return for their board. This custom has been continued by Dr. Palmer, who, in common with his predecessor, as well as the other medical officers of the hospital, believed that services fully equivalent in value to the expense incurred were rendered by these students, without whose employment considerable amounts would have been compelled to be expended in the way of salaries.

We do not believe, from the testimony, that any discrimination was made in their favor as to the quality of food, &c., and we are of the opinion, from the testimony of the medical officers, who are the only persons capable of judging, that the services rendered fully compensated for any additional expense incurred for their board.

SUPPLEMENTARY SPECIFICATION FOURTH.—"Under the management of said Palmer, human remains, offal, and *débris* from the dissecting-rooms of said college have been stealthily removed at night from the college building, and inhumed on the premises of said hospital, in dangerous proximity to the wards, water-pipes, or cistern that furnish the water-supply of said hospital; and, furthermore, deceased patients have been surreptitiously transported from the hospital-wards or dead-house to said dissecting-rooms to be operated on, of which corpses some were returned at night to the dead-house in a cut or mangled condition, and the rest, after dissection, were preserved, in part, for skeletons or specimens, and the remains, offal, and *débris* were hidden in hospital grounds or some other place unfit for sepulture."

We find, from the evidence, that in but one instance was material from the dissecting-

room buried on the hospital premises, and that this was done without the knowledge of the surgeon in charge; and it does not appear that any deleterious effect was produced on the inmates or any danger incurred of contaminating the water-supply.

No evidence has been submitted showing that dead bodies have been removed from the dead-house of the hospital to the dissecting-rooms of the medical college.

SUPPLEMENTARY SPECIFICATION FIFTH.—"Government property, appropriated to the use of the Freedmen's Hospital and committed to the official custody of said Palmer, has been disposed of, to a large amount, at public or private sale, and the proceeds thereof have not been accounted for or paid over to the government by said Palmer in the manner prescribed by law."

The amount of government property disposed of by Dr. Palmer has been small, so far as can be ascertained; and we believe that the proceeds of such sales have been properly accounted for, as evidenced by statements herewith, marked 34 and 35.

The specifications having been treated in detail, the charge based thereon may now be considered:

CHARGE.—"I hereby charge Dr. Gideon S. Palmer, surgeon-in-chief of the Freedmen's Hospital, in the city of Washington, with dereliction of duty and official malfeasance; with culpable disregard for the safety, comfort, and welfare of the patients in that institution; with maladministration of its pecuniary affairs, whereby the public money appropriated for the maintenance and support of said hospital has been to a large extent perverted, embezzled, or abstracted; with wrongful using or permitting others to use public property in his official custody for the benefit of private parties, and with being disqualified to hold the position and exercise the functions of surgeon-in-chief of said Freedmen's Hospital."

FINDING.—From a careful and conscientious consideration of the testimony, the board does not find any of the above charges against Dr. Gideon S. Palmer, surgeon-in-chief of the Freedmen's Hospital, sustained.

SUMMARY.

The board, giving due weight and consideration to everything that has been adduced bearing on the management of the Freedmen's Hospital while under the charge of Dr. Gideon S. Palmer, believes:

That no foundation has existed or does now exist for the charge of maladministration in any respect.

That errors of judgment have been committed there is no doubt, but it is the opinion of the board that Dr. Palmer has conducted the affairs in an honest, conscientious, and efficient manner, with the same care for government property and funds as would be evinced by a thoroughly capable man in the case of his own private property.

In the absence of any definite law or instructions to guide him, he has safely adhered in a great degree to the traditions and precedents of the institution. Where he believed abuses existed, he corrected them, as instanced in the discharge of a chaplain at $100 per month, and the cutting off of rations to the employés, a most expensive custom to the government, which had been handed down from the time of the quasi connection of the hospital with the Army.

It is a notable fact that, with no important exceptions (in point of fact only one or two nurses), the employés have all been connected with the hospital for many years.

No evidence worthy of consideration was adduced reflecting upon the subordinate medical officers, Drs. Glennan and Purvis, and the fact of their connection with the institution through all its changes for the past twelve or thirteen years is conclusive as to their efficiency and professional fitness for their positions.

The evidence signally fails in proving any misappropriation of public property, the few instances cited in the testimony being satisfactorily shown to have no foundation; the trivial articles mentioned belonging either to private individuals or Howard University.

The custom of the surgeon in charge of giving his horse one feed per day is explained by him as due to the large amount of work necessarily performed in the purchases and other matters connected with the outside duties of the institution.

In regard to the experiments on the palmetto leaves, the board, after mature consideration of all the testimony, believes the expense, if any, incurred thereby to have been too trivial for mention; and that if any had been incurred, the responsibility therefor would not rest with Dr. Palmer, who was careful to order that none should be.

The board has conscientiously endeavored to obtain every iota of evidence that could enlighten its members in this investigation, and in submitting the testimony have to explain its voluminous character by this fact. That much of it is irrelevant we are well aware, but from the ignorance and evident bias of many of the witnesses, it was deemed expedient, in view of probable reviewal without the important aid of the presence of the witnesses, that it should be as explicit as the scope of this investigation would permit.

The board, composed as it is of members of the medical profession, has to express the

opinion that the Freedmen's Hospital is not a first-class institution. In the first instance, the location and manner of construction of the buildings are bad; they have been in occupancy for something like eight years, and being frame, are liable to absorb and retain noxious germs that experience teaches us may only be dormant for lack of the exciting causes to the development of malignant disease.

Again, the appropriations are not now nor have they been of late years sufficiently large to enable the officers in charge to conduct a model hospital.

From the fact that the inmates as a body are from the lowest and most destitute of all our indigents, and their demands so importunate and numerous, it has begot and fixed the idea that the wards of this institution should be occupied by the very largest number compatible with comfort. This is a laudable feeling, and to the charitable, not biased by the demands of the present advanced state of the medical art, it would seem not to admit of question that the greater the number cared for in the present unquestionably comfortable hospital the greater the good done.

The board does not doubt but that one-half of the present number of inmates might be cared for in accordance with the highest standard of hospital excellence, but it would not nor could it, viewing all the peculiar surroundings, coolly recommend the deprivation to so many of the immense relief now afforded them.

To relieve the surgeon-in-chief of a portion of the great responsibility of managing an institution where the limits of his powers are so loosely defined, as well as to preclude the possibility of such grave charges being repeated with so little to sustain them, we would recommend the appointment by the honorable Secretary of the Interior of a board of visitors to the Freedmen's Hospital, with the usual powers of such bodies. The board can recommend no great expenditures upon a property not owned by the government, but would suggest the following improvements:

1st. The construction of covered ways from the wards to the dining-room, as also to the water-closets situated outside the wards.

2d. The addition to the furniture in the wards of small tables between the beds, as was the custom in Army hospitals.

2d. That when the weather shall permit, the interiors of the wards be renovated by an additional hard coating to the walls, and painting of wainscots, &c.

These improvements may be made at comparatively slight cost, and are proper objects for expenditure from the "hospital" or "surplus" fund of the institution, and, therefore, would necessitate no appropriation of public funds.

We feel it our duty in concluding this report to bear testimony to the alacrity and willingness with which Dr. G. S. Palmer and his subordinates at the Freedmen's Hospital aided this board in its labors. Every possible facility was extended for a thorough investigation, and the demands made are but slightly evidenced by the documentary testimony herewith.

The board were instructed to hold their sessions in secret, while the charges were published in the daily press. We are not aware that the report has been made public. To these circumstances may be owing the fact that the public mind has been partially prepossessed against the management of the hospital, and the Senate ordered the present investigation. Perhaps if the Senate had been in possession of the report of Dr. Hood and his associates, made after so much painstaking and conscientious labor, where these could have no motive except to faithfully discharge a duty for which they were fully competent, it would not have deemed it necessary to have the expense incurred of further inquiry. But the committee observed by the interview, stenographically reported, between the Secretary of the Interior and Solicitor Marble and the members of the board, found on page 328, that the board formed their conclusions in part from their judgment of the credibility of witnesses, and the committee therefore examined a large number of witnesses, in order to judge for themselves the degree of discretion exercised by the board in determining upon the credibility of witnesses.

This seemed the more necessary because the inmates of such institutions as the Freedmen's Hospital, and especially of that hospital, are drawn from the most needy and wretched classes of society, many of them imbecile and some idiotic, some degraded to beastliness by loathsome vices, and others bearing the impress of a life of extreme want. Some, among the inmates, are men and women of good character and considerable intelligence, consigned there by disease and poverty. Much

discrimination is necessary in judging testimony drawn from such sources. The greatest misfortune that could happen to these unfortunate beings would be to turn them from the hospital out into the streets to die, for they have no other shelter. Witnesses so situated, of such grade of intelligence and moral stamina, would be apt to avert such consequence by testifying so as to propitiate the power that could pronounce their fate, and to vary their testimony as different influences moved them. This was the case with the testimony given before the board, and taken subsequently as an aid to that investigation. The same witnesses testified differently at different times, and excused their contradictions by insisting that they had been unduly influenced at one time or another, by one side or the other. Some constraint seems to have been used on this class of witnesses to compel them to testify against the hospital, if the committee are correct in their inferences from the following correspondence laid before them by the Secretary of the Interior:

WASHINGTON, *October* 18, 1877.

SIR: A patient of the Freedmen's Hospital, named Peter Dorsey, was this day summoned by the investigating committee to appear before the commission and give his testimony, which was very important, in support of the charges made by me against the surgeon in charge of that institution. He promised this morning to attend as a witness, when called, but mysteriously disappeared or was spirited away, that he failed to appear when sent for by the committee. Intimidation, allurements, espionage, and treachery have been invoked to circumvent me and defeat the government in its efforts to investigate the management of a government institution. I therefore request that, in comformity to your promise to me, you shall order the expulsion of said Peter Dorsey from the Freedmen's Hospital as unworthy to receive the munificence of the government.

With great respect, I am your obedient servant,

ROBERT T. JOHNSON.

Hon. CARL SCHURZ,
Secretary of Interior.

WASHINGTON, D. C., *October* 19, 1877.

SIR: I hereby withdraw the letter I sent to you concerning Mr. Peter Dorsey of 18th instant. Mr. Dorsey this day appeared before the commission and gave his testimony in an intelligent, conscientious, and honorable manner, and he also satisfactorily explained his absence when summoned as a witness yesterday. Myself and my fellow patients desire that he should remain an inmate of the hospital until he is cured.

I am, with great respect, your obedient servant,

ROBERT T. JOHNSON.

Hon. CARL SCHURZ,
Secretary of the Interior.

Any one can trace through the testimony given before Dr. Hood's board, the subsequent affidavits and the testimony herewith submitted, a singular inconsistency of certain witnesses, to be partly excused from their fear of discharge from the hospital, but showing that no firm conclusions can be drawn from such testimony. The truth is only to be reached by taking witnesses where fears have not been operated on. For instance, William Brown testified against the hospital, next he made an affidavit taking back his testimony, next an affidavit inconsistent with that, and finally, before us, in vindication of the hospital. He subsequently asked to be recalled, and said:

WILLIAM BROWN (colored) recalled.

By Mr. SARGENT:

Question. The committee are informed that you have a statement that you desire to make to us. You can make any statement that you see fit.—A. Well, the statement I want to make is concerning the commencement of the present affair. At the commencement there was a great deal of excitement around; they commenced talking to different ones, and before they had the investigation, before a man went and testified, the men talked with them, and they went before the committee when they met there.

Q. I do not understand you exactly.—A. I say that when they first commenced there a good many of them went before the committee and testified. Of course they had been talked to about going up and testifying.

Q. Talked to by whom?—A. Mr. Felton talked with them.

Q. Was that in your presence?—A. No; the men told me that they wanted me to go and testify; I told them that I did not care about coming here and testifying, because I did not know anything much about the law business, as I was there, and then I did not see anything wrong.

Q. Did you testify that there was anything wrong?—A. No, sir; I did not.

Q. They wanted you to testify against the management, and you said you did not know anything against it?—A. No; I did not know anything against the doctors.

Q. You did not testify against them?—A. I testified to what things I had seen, but then I did not see anything wrong.

By Mr. ALLISON:

Q. What do you mean by saying "they"? Who are they?—A. Testify that things were wrong in management around the hospital.

By Mr. SARGENT:

Q. Who spoke to you about it?—A. Mr. Felton was one. He told me he wanted me to testify before the committee. The investigation committee was up there.

Q. Did he leave it to you to state what things you had seen or did he tell you what you had seen?—A. Well, he had something written off about what went on there, and told me to speak these things because I had seen them.

Q. Had you seen them?—A. I have never seen half the things wrong that they said were contrary there.

Q. You had not seen the things that he stated in the paper?—A. No, sir.

Q. And you declined to do so?—A. Yes, sir.

Q. Was Mr. Felton satisfied with you declining?—A. Well, he must be satisfied, because I must go there before the committee. Everything that I thought was not right, I made objection to.

Q. Is there anything further you wanted to say?—A. No, sir.

Q. Did you yourself say anything to any one about Mr. Felton swearing at you?—A. Yes, sir.

Q. To whom did you say that?—A. I spoke to Mr. Roby, the watchman, and then I spoke to some one else about it.

Q. Did Mr. Felton swear at you to get you to make an affidavit, or for any other reason? What did he swear at you about?—A. All there that did not talk with them and consult with them they said were spies, and several times they were cursing and I spoke to them about cursing in the ward there.

Q. You made an affidavit, did you not, that Dr. Purvis induced you to make a former affidavit?—A. Dr. Purvis spoke to me one day, and said he wanted me to give in evidence because I was there and saw all these things. I did not like to do so, because I was uneasy and did not know what it would come to. I told him I would see about it, but he did not persuade me to make an affidavit.

Q. Any affidavit you made you made of your own free will?—A. Yes, sir. Mr. Felton spoke to me about making an affidavit, and I told him no, I did not want to make an affidavit. He said yes. But the affidavit the doctor spoke to me about he did not persuade me to make.

Q. Do I understand you that Felton swore at you because you would not say that Dr. Purvis persuaded you to do it?—A. He was always swearing. Sometimes when I was making up fires there in the building he would get to cursing anybody he would see going round about. He would curse them and abuse them, and it seemed as if he wanted everything very nice and correct around him. Any one who did not talk with them and talk the way they wanted him to talk, they would say he was a spy.

Q. Did you say to Mr. Roby that Felton made you say that Dr. Purvis induced you you to make the affidavit which you did make, and swore at you to make you do it?—A. Mr. Felton told me that I must make an affidavit; I told him no, and he said yes, I must make an affidavit, because he was counsel for the case and I must make one.

Q. Did you do it?—A. Yes, sir, I did.

Q. Making you say "yes" where you had said "no"?—A. Yes, sir; but everything was upside down there. Everybody almost around the building was scared and did not know whether they would be discharged or not.

Q. Who were you afraid would discharge you?—A. I did not know whether they would go to headquarters and have us discharged. They were always writing letters.

Q. What do you mean by "headquarters"; the Interior Department?—A. Yes, sir.

Q. You say he was always writing there, and you were afraid he might get you discharged, and so you made the affidavit he wanted you to make?—A. Yes, sir.

Q. I think it is stated in that affidavit that Dr. Purvis made you make an untruthful affidavit; is that true?—A. No, sir; it is not. Dr. Purvis did not make me. He only spoke to me about it twice, and I told him "no" one time, and he came to me and said he would like for me to make an affidavit, because I was there and had seen everything and knew about everything.

Q. Did Dr. Purvis or Dr. Palmer ever threaten you with discharge if you testified or did not testify?—A. No, sir; they never said a word to me about that. All the threatening was on the other side, from Mr. Felton and them—all the threatening which was made there.

Q. Whom do you mean by "them" besides Felton?—A. Him and Bob Johnson and Mr. Potter were pretty much going through the building. All three of them worked together.

Q. And they are the ones you mean by "them"?—A. Yes, sir.

Q. Do you know of those men threatening other persons there?—A. I do not know. I heard the other men say so.

Q. You did not see it yourself?—A. No, sir.

By Mr. EATON:

Q. Why did you not tell us this the other day when you testified at the hospital before this committee?—A. Well, I answered all the questions which you asked me the other day at the hospital.

Q. How came you to come now to do it? We are very glad to have you come and tell the whole truth; but why do you come?—A. Well, I came myself, and the reason I came was this: The other day, when you asked me to make a statement, I was a little excited, and I knew there was something left out, and I thought I would come here and make a statement.

Q. Whom did you say so to?—A. I said so to Mr. Roby; he and I were talking.

Q. The doctors did not know about it?—A. No; the doctors did not say anything about it.

Q. The doctors did not ask you to come?—A. No, sir.

Q. You have come of your own free will?—A. Yes, sir.

Brown's testimony is not relied upon by the committee as establishing any fact not deducible from its aberrations, viz, that patients and employés at the hospital were liable to be influenced by fear of discharge or loss of place, and other testimony, undrilled and unawed, must be looked for for a true knowledge of its affairs and management. As a reply to the alleged constraint and drilling of witnesses to compel them to testify against the doctors, it was alleged that the witnesses connected with the hospital had been made to subscribe affidavits not read to or understood by them in their favor. On that point we took the testimony of John H. Cook, who took these latter affidavits, as follows:

Question. What is your occupation?—Answer. A practicing lawyer here.

Q. Your office is in the Le Droit building, I believe?—A. Yes, sir.

Q. Did you draw up some affidavits for witnesses in the case of the investigation of the Freedmen's Hospital?—A. I did.

Q. Do you remember for what witnesses, or any of them? Did you draw one for Lucius Harcomb?—A. Yes; Lucius Harcomb, William Brown, and there were fifty or sixty of them altogether. I cannot call the names now; I would know them at once if I should see them.

Q. What was your method of drawing those affidavits?—A. With reference to the men you have named, some four or five came to the room of the surgeons, one at a time, sat down, and stated to me the facts contained in the affidavits, and I wrote down what they said, putting it in good English.

Q. You wrote it in their presence?—A. Yes, sir; they sat right by me. There may have been a surgeon present in one or two cases; Dr. Purvis may have been in the room, but in the majority of the instances the witness, or the person making the affidavit, and myself were alone in the room.

Q. Did you read the affidavits to them in every case?—A. I did; and you will find in the affidavits, I think, words interlined which they directed me to interline, showing what they intended to say. In every instance the affidavit was read over to them before they signed and swore to it.

Q. In the cases of those four or five persons who complained that they did not know the affidavits, you remember that that course was pursued?—A. I recollect distinctly that it was, and those men were very careful about what they said. They said they did not want to say anything to contradict the statements that they had made in their previous examination or something to that effect, and therefore I said to them "You perhaps had better not make any affidavit at all." For reasons which I knew not, they were willing and anxious to make affidavits and I took their statements.

Q. You did not change the ideas that they gave you in any degree, but endeavored to render their language into good English?—A. That was all. The affidavits will show that I interlined words to make them careful and strong in their favor, and at their suggestion.

Q. Lucius Harcomb, in an affidavit signed by his mark, made before O. S. B. Wall

justice of the peace, and a copy of which is sent to us from the Interior Department, says that he was not acquainted with the contents of the affidavit, and it did not correctly represent his convictions?—A. I simply have to say to the committee, if you wish any remark from me on that subject, that that statement is simply untrue. Lucius Harcomb is a pretty sharp fellow. He came there to say some things and not others, and only what he said is contained in the affidavit that I drew up for him.

Q. William Brown says that you "proceeded to interrogate him and pretended to transcribe his answers. Having finished his questions, Cook directed him to sign a paper, which he did without reading, but he did not answer to it, as no oath was administered to him"?—A. I simply say to the committee that after putting down what William Brown said to me, and after reading it over to him, I then stood up and with his hand uplifted he made oath to every word contained in the affidavit. I read it to him again before he made oath, he standing and I standing.

Q. He quotes from that affidavit these words: "That complaints against the hospital did not begin until Mr. Felton came." He says that he did not use such language. Do you remember that subject?—A. He certainly did. He said in substance, as far as I remember it now at this distance of time, that everything had passed along smoothly until Mr. Felton and Mr. Johnson came there, and then complaints began.

Q. He further says that he never said or thought that the patients who testified before the investigating committee were continually talked to by Mr. Felton and Mr. Johnson, and that they would not have testified as they did if they had not been urged to do so. Do you remember that subject?—A. Yes, sir. That was talked about also, and all of those men that testified said that the patients had been regularly talked to by Mr. Felton—the persons who testified before the investigating committee; and as I remember it now they also said that much of the testimony they gave was given because they were afraid that they would be turned out of the hospital if they did not so testify. In substance, that conversation occurred at the same time.

Q. Were these suggestions made by them, or were they drawn out by suggestions made by you?—A. I did not know anything about the matter at all. They were suggestions made by them. The witnesses appeared to have fallen out with Mr. Felton and Mr. Johnson, and they were making their complaints to me, and in that way that subject came out. I knew nothing whatever of the fact that Felton had had any contact with them until it came out from them. Indeed, I was not prepared to say anything in their behalf. I simply went there to take down what they said, and I will say frankly with sympathy for them, for I did not want to be a party to foisting on the hospital or keeping on the hospital any gentlemen who were either incompetent or were treating them improperly. The sympathies I had were in the other direction.

Perhaps this matter is too long dwelt on, but the purpose is to show clearly that outside, disinterested testimony of persons familiar with the hospital from their official duties, doctors, ministers of religion, and those having had servants or friends there, &c., could only certainly interpret what was left confused by the eager partisanship or cringing servility of some of the inmates and employés.

The instructions and powers of the board confined them to the examination of "officials, employés, or inmates of the hospital."

The Freedmen's Hospital in Washington, was established under the Freedmen's Bureau for the care of the freedmen and refugees, and was one of a number in various Southern States. When the bureau was broken up there were persons in the various hospitals whom it was impossible to discharge, viz, idiots, imbeciles, very aged persons, &c., and these were collected in one hospital in this District. The hospital was the recipient of the remains of the contraband camps, which the government found on its hands and had, necessarily, to provide for. In 1869 the following act was passed:

AN ACT relating to freedmen's hospitals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the Bureau of Refugees and Freedmen s authorized and directed to continue the freedmen's hospitals at Richmond, Virginia; Vicksburg, Mississippi; and in the District of Columbia, including the asylum for aged and infirm freedmen and for orphan children: *Provided,* That the expense thereof shall be paid by the Commissioner out of moneys heretofore appropriated for the use of the bureau: *And provided further,* That said hospitals shall be discontinued as soon as may be practicable in the discretion of the President of the United States.

Approved April 7, 1869.

This law included the orphan children among the patients of the hospital, and they were, for a time, under the same management and support, but subsequently were gathered into the orphan asylum and drew rations from the hospital down to the present year, mostly in flour, under the manual issued to the officers of the Freedmen's Bureau by the War Department, dated January 21, 1867, as follows:

The Subsistence Department, as may be most convenient or least expensive to it, and according to the condition and amount of its supplies, shall determine whether soft bread, or flour, or other component parts of the ration as equivalents, shall be issued.

Congress has made regular yearly appropriations for the support of the hospital, not very large in amount, but imperatively needed for an indispensable charity. There is no other institution where the forlorn beings who occupy this hospital can get shelter, and to close it would be to turn out on the community a mass of disease and wretchedness of which little conception can be formed by any one who has not visited and examined the institution.

The first work performed by the committee was to thoroughly inspect the hospital in all its parts. The premises occupied by the hospital belong to the Howard University, and are held under a lease executed in 1874, which was renewed in 1875, which is a copy of previous leases, but which has not been renewed since that time, the Government holding over as a tenant at will under the conditions of the lease, which is as follows:

Memorandum of an agreement between the Howard University and Robert Reyburn, surgeon-in-charge of the Freedmen's Hospital, for the Interior Department of the United States, both of the county of Washington, in the District of Columbia, whereby the said Howard University has agreed to let and does hereby let to the said party of the second part the buildings and grounds known as the Freedmen's Hospital, in said county of Washington, by the year, commencing on the first day of July, A. D. 1874, and ending on the 30th day of June, A. D. 1875, at and for the sum of four thousand (4,000) dollars per annum, payable monthly on the last day of each month.

And the said Robert Reyburn, surgeon-in-charge, as aforesaid, has agreed to take and does hereby take and hold the said premises as tenant as aforesaid, upon the following conditions, to wit:

First. To pay to the treasurer of the said Howard University the said sum of four thousand (4,000) dollars, rent in monthly installments.

Second. To furnish light and heat for that portion of the main brick building necessary for and in use of the medical department of the said university.

Third. To consent, and does hereby consent to the reserved right and use of such portion of the said premises as has been used by said medical department, and to furnish facilities to the professors and others of the said medical department of the said university for clinical instruction in connection with the said medical department.

Fourth. To put the engine in said hospital in good repair, and direct the use of the same one hour per day (Sundays excepted) for pumping water to the main building of the said Howard University.

Fifth. To keep the buildings and improvements belonging to the said hospital premises in good repair.

Sixth. The Howard University reserves the rights mentioned in the above-named conditions to be performed by the said Robert Reyburn, surgeon, as aforesaid.

In testimony whereof the parties above mentioned have hereunto set their hands and seals this 29th day of September, A. D. 1874.

(Signed) JOHN M. LANGSTON,
Vice-President and Acting President Howard University.

(Signed) ROBERT REYBURN, M. D.,
Surgeon in charge of Freedmen's Hospital, for the Interior Department, United States.

Witness:
(Signed) P. GLENNAN, M. D.
(Signed) J. B. JOHNSON.
(Duplicates.)

The rent of the hospital buildings and grounds has always been appropriated by Congress at $4,000 until the current fiscal year, when but $2,000 was appropriated, an insufficient sum, considering the extent and value of the property.

An inspection of the wards, bedding, kitchen, offices, &c., made by the committee, showed the same to be cleanly and in good order, while the food seemed to be good and well cooked. It was important for the committee to ascertain whether this cleanly condition of the hospital was induced by the pendency of the investigation or whether it was its usual condition. Various modes were adopted to discover the truth. All the persons in one ward were sworn whose grade of intelligence or condition of health seemed to justify their testifying; and they concurred in the statement that the then scrupulous cleanliness which the committee could see for themselves was usual, and had been during the various terms they had been in the hospital, and that they were satisfied with their food. These witnesses were examined in the absence of all persons except the committee and reporters. This testimony is here given in the order in which it was taken, so that at a glance it may be seen what all the available witnesses in a ward, unexpectedly called upon, and away as far as possible from overawing influences, had to say on these subjects.

WARD NO. 1.

MICHAEL BOYLAN (white) sworn and examined.

By Mr. SARGENT:

Question. How long have you been here?—Answer. Two weeks last Wednesday.

Q. What is your treatment here at the hospital?—A. Pretty good.

Q. Do you find the nurses and doctors attentive?—A. Yes, sir; very much.

Q. What do you have to eat? Is your food wholsome and well cooked?—A. Very well cooked, and considering that there are so many here it is very good; good doctoring and good treatment indeed.

Q. Is there any further statement you wish to make?—A. I know of nothing.

CHARLES RALLETTE (white) sworn and examined.

By Mr. SARGENT:

Question. What is the number of this ward?—Answer. No. 1, I think.

Q. How long have you been here?—A. I believe I came on the 21st of January.

Q. How do you find your treatment here at the hospital?—A. I find my treatment very well, considering. I have a first-rate physician. He has lifted me up wonderfully since I have been here. I came here in a dying state with the most terrific chronic diarrhœa, and he has built me up wonderfully.

Q. Do you find your food and attendance good?—A. Very good indeed. I do not think there could be any fault found so far as I am concerned.

Q. How about the cleanliness of the beds, the floors, and so forth? Are they kept in good order?—A. Well, I think under present circumstances that they cannot be done much better. The place wants renovating, of course.

Q. Are the floors always as clean as these seem to be?—A. Yes; they work on the floors three or four times a week. They do their duty as far as I have observed. I do not think there is anything left undone.

Q. Do you find the quality of the food good?—A. Well, sir, I have precisely what the doctor orders me for my disease, in good shape, it seems to me: and I think from what I see that every man is allowed to take what is ordered him.

By Mr. ALLISON:

Q. Do you leave your bed during the day?—A. Very seldom yet.

Q. You do not go to the mess-table?—A. No, sir; I cannot go.

By Mr. SARGENT:

Q. You receive your food by prescription?—A. Yes, sir; it is ordered by the doctor.

JOSEPH GOOD (colored) sworn and examined.

By Mr. SARGENT:

Question. How long have you been in the hospital?—Answer. Ever since last May.

By Mr. EATON:

Q. Do you recollect the day of the month?—A. May 28.

By Mr. SARGENT:

Q. What has been your treatment in the hospital?—A. First rate; no fault to find since I have been here.

Q. Have you had good food?—A. Yes, sir; good food and the place kept clean.

Q. Do you find that to be the case throughout this ward?—A. Yes, sir; throughout this ward.

By Mr. ALLISON:

Q. Has it been so ever since you have been here, about the same uniformly?—A. Yes, sir; pretty much the same.

By Mr. SARGENT:

Q. Has there been any change during the last three months; that is to say, is it these last three months any different from what it was before?—A. No, sir.

Q. Something has been said in the papers about putrid food being given to the patients. Do you find any such food?—A. None has been given to me.

Q. Have you seen any given to any others?—A. No, sir.

Q. Is the food well cooked?—A. Yes, sir; well cooked.

Q. Is the bread sweet?—A. The bread is good.

Q. How about the meat?—A. The meat and bread are both very good since I have been here.

Q. Have you been kindly treated and well taken care of?—A. Yes, sir.

Q. Is there any statement you wish to make?—A. None at all.

Q. None of the doctors are here, and nobody having any charge of the institution; you are before a Senate committee, and are free to speak about anything to us.—A. I understand.

Q. How is it about the attention of the physicians to you?—A. First rate, sir. Come here and you can see (exhibiting an amputated foot.)

Q. You came here with a wounded foot?—A. Yes, sir; frost-bitten.

Q. And it was amputated?—A. Yes, sir.

Q. And they have taken excellent care of you?—A. Yes, sir.

JOHN BRESNAHAN (white) sworn and examined.

By Mr. SARGENT:

Question. How long have you been at the hospital?—Answer. Since the 11th of January, in this ward. I was two weeks before that, upstairs for six days; got a relapse, and came in again, and requested to be brought into this ward.

Q. What is your treatment in the hospital?—A. I find my treatment right good; so far as doctoring, the best I ever saw, for I have been sick for the last eight years, and tried a good many doctors in the city, and never found a more experienced doctor, to my knowledge, than Drs. Glennan and Palmer. I made application to them for two weeks, coming in for medicine, and never found it so good in my behalf.

Q. Are the doctors attentive? Are they here every day?—A. Most every day. Dr. Glennan comes twice a day to visit the patients. I requested him, once, to give me a change of diet, and so he did. I find the diet always good enough.

Q. Does Dr. Palmer come also about the hospital?—A. He does not come to this ward unless he goes through to inspect it.

By Mr. ALLISON:

Q. Does he come through to inspect it?—A. I see him coming through once a week, regularly.

By Mr. SARGENT:

Q. Is the food you get good?—A. As good as I ever saw in any place for the like of a hospital. I get very good, healthy corn-bread; very good, healthy wheat-flour bread; hominy, rice, coffee, and tea, enough for me to eat.

Q. How is it about potatoes?—A. We get potatoes, too.

Q. As many as you want?—A. No; not quite as many as I want. Sometimes I get one or two. Sometimes, perhaps, I do not care about potatoes for my disease at this time; they do not suit it very well.

Q. There is no stinting in any kind of food—potatoes, or anything else—is there?—A. I see enough to eat, for myself, more than I can eat, since I have come in.

Q. Do others about you in the ward seem to have enough?—A. I cannot account for them. I see everybody, when he asks for more, getting it.

Q. How about the cleanliness of the room and beds?—A. It is just as you see it now.

Q. It looks clean to me now.—A. It has to be cleaned every day after the night; when the nurses come in the morning they clean it up; and it is at this time of the day every day as you see it now.

Q. Has it always been so since you have been here?—A. Always since I have been here attended to and washed every other morning or through the day.

Q. It has been so ever since you have been here?—A. Ever since I have been here.

WILLIAM WILLIAMSON (colored) sworn and examined.

By Mr. SARGENT:

Question. How long have you been here?—Answer. Two months.

Q. How do you find your treatment here?—A. I find it pretty well on the food, but very slim in clothing.

Q. The government did not give you a suit of clothes when you came?—A. No, sir.

Q. What disorder did you come with?—A. My toe was cut off.

Q. Frost-bitten?—A. No, sir; crushed.

Q. And you thought the government ought to have given you a suit of clothes?—A. Yes.

Q. Which it did not do?—A. It did not do it.

Q. You say your food is good?—A. Yes, sir; the food is good.

Q. Do the doctors take good care of your foot?—A. Yes, sir; they take good care of my foot.

Q. Is the hospital generally as clean as it is here?—A. Just this way all the time.

Q. And has been all the time you have been here?—A. Yes, sir.

HENRY BAER (colored) sworn and examined.

By Mr. SARGENT:

Question. What position do you fill in this ward?—Answer. Attending to the sick, keeping them clean, feeding them, and attending to their medicine.

Q. Is this ward No. 1?—A. Yes, sir.

Q. How long have you been in this hospital in that employ?—A. I have been connected with the Freedmen's Hospital some thirteen years.

Q. Have you been in this hospital ever since it was started?—A. No, sir; I was upstairs at the time Dr. Reyburn was here, and there were two nurses down here. Dr. Palmer took them upstairs and brought me down here.

Q. What kind of food has been given to the patients during the last two or three years?—A. Beef, hominy, rice, fish in season, sweet potatoes, and all such things.

Q. Are the articles good in quality?—A. Yes, sir; sometimes it is not cooked or something is not so good.

Q. Occasionally an article of meat may not be well cooked?—A. Yes, sir.

Q. How is the cooking generally?—A. The cooking generally is pretty good. Sometimes it is not cooked as well as others, but sometimes again it is cooked pretty well. We hardly see anything about it.

Q. Are the same cooks here now that were three months ago?—A. Yes, sir.

Q. And the same there were three years ago?—A. There are some new cooks, I think, within three years.

Q. Better cooks?—A. They have shifted them.

Q. Are the cooks as good as ever they were here?—A. Well, we had some cooks four or five years ago that I think were a little better than these here; but they are pretty good cooks.

Q. How much change has there been in the cooks during that time? Tell the names of the cooks that were here four or five years ago that are not here now.—A. Of the women there was Ann Henrietta Gant, Hester Armstead, and then Fred Frazier and Louisa Frazier his wife, and that was about all.

Q. They were here four or five years ago?—A. Yes, or more than that, perhaps.

Q. Tell us those who were here three years ago who are not here now.—A. Hester Armstead, I think, is one of them, as near as I can get at it, and Ann Henrietta Gant. That is about all.

Q. How many of those who are here now were here three years ago?—A. Butler, John, Sam, and Eliza Gray. Those I know were.

Q. Who is the head cook now?—A. Butler is, on the full diet; that is, for the dining-room.

Q. Do you always keep this ward as clean as it is now?—A. It is as clean as ever since I have been here, and I keep it as clean. It was not as clean when I first came and that was the reason of the shifting.

Q. How long is it since you came here?—A. I think it has been about four years.

Q. Then during the last four years you have kept this ward as clean as it is now?—A. Yes, sir; I kept it as clean from the first start after the change of nurses. That is what they made the change for. Ever since then it has been kept just as you see it now. Any time you would have found it just as it is now. I kept it so. If I attend to anything, I do it right or I do not want to do it all.

(See also the testimony from pages 114 to 138.)

So far as the committee could see, in respect to cleanliness, ward one was a fair example of all the wards. The excellent condition in which the wards and beds is kept is remarkable from the fact that the patients on their entrance are almost invariably covered with rags and vermin, many of them are persistently filthy in their personal habits, the uncontrollable effects of their diseases, or of carelessness, the result of habitual poverty, and only constant care and labor prevent the establishment being overrun with vermin and otherwise defiled. Some helpless patients require constant changing of beds as a condition of comparative decency. The complainant and several other witnesses insisted that the condition of the hospital as we found it was greatly improved over what it had been before the investigation by Dr. Hood and his colleagues.

This is contradicted by the report of the first committee, made in August, and hereinbefore cited, by the report of Dr. Hood's committee, and by a multitude of witnesses whose testimony will be found accompanying this report. On such points the committee sought to get the testimony of reliable persons outside, who had occasion to visit the hospital at various times, officially and otherwise, and whose evidence would be above any suspicion of ulterior purpose, rather than rely exclusively on that of inmates of the hospital, among whom there was more or less servility as well as partisanship and bitter vindictiveness. For this reason we examined the Assistant Secretary of the Interior, who had visited the hospital in August, taking the officers by surprise. His testimony was as follows:

ALONZO BELL sworn and examined.

By Mr. SARGENT:

Question. What position do you occupy?—Answer. Assistant Secretary of the Interior.

Q. Did you have occasion at any time to visit the Freedmen's Hospital?—A. Yes, sir.

Q. When did you go there?—A. As near as I can remember, some time in August. I cannot fix the date.

Q. Who accompanied you?—A. The Secretary.

Q. Did you give notice to the physicians of your intention to visit it?—A. No, sir.

Q. What did you find the condition of the hospital to be?—A. We found it in very good condition; everything seemed to be in order.

Q. Did you notice about the cleanliness of the floors and the beds?—A. I thought they were very clean.

Q. Did you examine the food of the patients?—A. Yes, sir.

Q. What did you find about that?—A. It seemed to be very good.

Q. Did you taste the bread?—A. I tasted the bread. The bread was sweet; as good as I have in my own house.

By Mr. EATON:

Q. This was before the examination instituted by the department?—A. Before.

By Mr. SARGENT:

Q. Is there any other statement with reference to the matter which you wish to make as to what you found there?—A. No, sir. All I can say is that we went there without giving notice to any one at the hospital, and when we got there we made a pretty thorough inspection of everything that there was there, and found everything in apparently very good condition.

The committee called members of the Metropolitan police, whose duties took them to the hospital; among others, the following:

J. N. FIFIELD sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. Policeman on the Metropolitan police force.

Q. Have you visited the Freedmen's Hospital officially?—A. I have. I have been in that neighborhood, on that beat, for the last seven years.

Q. What was the official occasion of your visiting there?—A. I have been called on to take patients there and leave them there. They have always been very accommodating, and they take patients in there gratuitously.

Q. Have you visited there by day and by night?—A. Yes, sir.

Q. What is your observation of the manner in which the hospital is conducted?—A. As far as I know, and as far as I have seen, it has been very well. I have seen them giving the patients chicken-soup and broth, and the nourishment seemed to be very good.

Q. What has been your observation during the last three years as to the cleanliness of the institution?—A. Very good. I have been connected with other institutions of the kind myself before I went on the police force, and as far as I have seen, it was very cleanly.

Q. What seemed to be the treatment of the patients?—A. Very good.

Q. Would you afterward have occasion to see the persons you took there and talk to them?—A. Yes, sir; I used to have to call every day to see them. They were prisoners of mine at the time, who had been shot, for instance, and were very low. I have seen Dr. Purvis and Dr. Glennan attend to them daily, and they seemed to be very attentive to them.

Q. Would those persons make complaint to you of their treatment or food in any way?—A. I have never heard any complaint. I did not know what I was summoned here for at all.

Q. You have not had complaints from these persons during these years?—A. I have not. I have heard no complaints.

Q. Would they have opportunity to make complaint to you or be likely to make complaint to you if they were not well treated?—A. They would. I have been on that beat and have been going around the hospital for seven years until the last two months, when I was transferred to a beat farther out in the county. Up to that time for the last seven years it has been my duty to watch around that beat, and it is in a very bad neighborhood. There is near there a place called Cole's Row, full of very bad people; and this hospital is right in that place. It is one of the worst places in the city of Washington, I suppose, for bad characters.

Q. You say you were removed from that beat about two months ago?—A. Yes, sir.

Q. During a month or two before you were removed were you in the hospital?—A. Yes, sir.

Q. Did you notice any difference, any improvement from what it was before?—A. I did not; I did not notice any change.

JAMES F. MCGRAW sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. Metropolitan police officer.

Q. How long have you been connected with it?—A. Nearly five years; four years and six months.

Q. Have you had occasion, as an officer, to visit the Freedmen's Hospital during that time?—A. Yes, sir; frequently.

Q. What has called you there?—A. I have been there once or twice in cases of parties being shot; on another occasion in the case of a party who was knocked in the head with a brick, and in another case where a patient was very sick. I have had to summon parties there as witnesses, and to go over for the doctors, to bring them to the station and attend patients there once in a while.

Q. Would you be about in the hospital during those visits?—A. Yes, sir.

Q. What was your observation of the conduct of the hospital?—A. It was always clean and respectable.

Q. Did you have conversation with any of the patients you took there as to their treatment?—A. Yes, sir. I used to go to see to them two or three times a week, perhaps.

Q. What was their testimony in reference to the condition of the hospital?—A. I saw them always pretty well satisfied—always well treated.

Q. Have you seen any improvement in that respect during the last few months?—A. No, sir; it is just the same as it always was, to my knowledge and belief. I do not see a particle of change.

H. K. REDWAY sworn and examinined.

By Mr. SARGENT:

Question. Are you sergeant of the Metropolitan police?—Answer. Yes, sir; one of the sergeants of the second precinct, where this hospital is located.

Q. How long have you been on the Metropolitan police?—A. Nearly ten years.

Q. Have you had occasion, officially, to visit the Freedmen's Hospital?—A. I have.

Q. How often do you think you have been there?—A. I have been there, perhaps, twice a week, then once a month, then once in two months, and so along for the last seven years. I have been in that precinct over seven years.

Q. What has been the occasion of your going there?—A. Generally to look after parties who had been injured and taken there for treatment.

Q. What was your observation of the manner in which the hospital has been conducted?—A. As far as I have been able to judge, it seemed to be well conducted. The patients seemed to be well cared for, and looked clean, and they were kept as cleanly as possible, as I should think patients could be, in the condition some of them were. I will state that I am particularly acquainted with Dr. Glennan, and was acquainted with him during the war. He was surgeon at the Stone Hospital, the Eye and Ear Infirmary, on Meridian Hill. I was very sick at Mount Pleasant Hospital. He used to come in to see me, and, being acquainted with him, I used to go over there, sometimes, to see him, as well as to look after parties taken there.

Q. These visits, official and friendly, to Dr. Glennan, gave you an opportunity to see the manner in which the hospital was conducted?—A. Yes, sir; and being unfortunate enough to be in hospital once myself for awhile, I knew something of his treatment.

Q. Your knowledge of the matter, then, is that the Freedmen's Hospital was cleanly, and patients seemed to be contented and well taken care of?—A. So far as I could judge.

Q. Did you ever have any complaint from those you took there?—A. Never. We had men that were taken there, shot about the head and other places. I never heard any complaint. Their wounds seemed to be dressed, and well cared for generally.

Q. Were the men you took there all put in Dr. Glennan's ward, or in some of the other wards sometimes?—A. I have had occasion to go but very few times into Dr. Purvis's room, perhaps two or three times; generally into Dr. Glennan's.

Q. What was the condition of Dr. Purvis's ward?—A. It seemed to be clean and in good condition.

Q. Have you noticed any improvement in the hospital of late in that particular?—A. I do not know that I have. The doctors have been uniformly kind there. Whenever we have had occasion to send for one they have come at all times, night and day, whenever it was so that they could. They have always been ready to receive patients without any formality for the time being. It has been a great relief to us to be able to have some place to take parties who were badly injured and sick.

Q. Patients are received temporarily, you say. Do you apply after that to the Secretary of the Interior?—A. Yes, sir.

Q. So that for them to remain there, except temporarily, you would get permission from the Secretary of the Interior?—A. They would remain there until they recovered, or recovered sufficiently to be sent away.

WILLIAM H. WEST (colored) recalled.

By Mr. SARGENT:

Question. Are you connected with the Metropolitan police?—Answer. I am.

Q. How long have you been?—A. In the neighborhood of eight years.

Q. Have you had occasion to visit the Freedmen's Hospital officially?—A. Yes, sir; on several different occasions I have had to visit it.

Q. What business took you there?—A. I have had to go there to take patients there who were injured. In one instance I remember that a man was run over in the street—a very old man by the name of Travis Taylor, about seventy-odd years old. He was run over in the street, and I arrested the party that drove over him, took him to the police court, and took this old gentleman to the hospital and put him in the care of Dr. Purvis.

Q. Did Dr. Purvis receive him and take care of him?—A. He did, in the most kindly manner; so much so that the old gentleman, after his recovery, spoke in great credit to Dr. Purvis for the kind manner in which he was treated.

Q. What was your observation during your visits there as to the condition of the hospital?—A. I never found it in any other way than the most cleanly manner in each ward I visited. I visited several. I visited Dr. Glennan's and Dr. Purvis's wards—Dr. Purvis's more frequently than any other—and I have always found that in the most cleanly condition.

Q. Did you talk with these patients that you took there, and did they ever complain of their treatment?—A. No, sir. I have talked with five or six, and with some whom I did not take there. In one instance, Officer McGraw took a boy there who was hit in the head with a stone, and others who were shot, and they always spoke in the highest terms of the manner in which they were treated. I never heard a complaint from one before this complaint. Robert Johnson was the first man I ever heard say anything against the hospital.

Q. Are the policemen generally of the opinion in regard to this hospital of you four gentlemen who have been examined here, as far as you know?—A. Yes, sir. I have never heard any express themselves only in the same manner and with the greatest regard as to Dr. Purvis; and, in fact, all the doctors.

Q. You have heard them talk among themselves in that way?—A. Yes, sir.

Reference is also made to the testimony of Thomas Jones, page 263, a waiter at the Ebbitt House, who visited the hospital daily from June to September, 1877, and states that the hospital was always clean and de-

cent, the nurses and doctors attentive, and the sick well taken care of. Also to that of Mr. and Mrs. Augustus Gusthoff, pages 244-5, who had a favorite servant at the hospital during last summer and visited her frequently. Mrs. G. said:

Q. What did you notice about the cleanliness of the ward?—A. I was there Monday and Friday, and several times Saturday. I think the place is as clean as anybody can wish it.

Q. Was it so last May and June?—A. It was just the same.

Q. You find no difference between now and then?—A. I cannot see that there is any.

Q. Did you ever see the food that was given to this girl?—A. I was there several times at supper, never at dinner.

Q. Was the food good?—A. Yes; I thought it was good enough for any person that was sick. Another lady was with me, and she said, "My, Mrs. Gusthoff, how well off are the people here; they cannot wish a better home."

Q. Did you ever notice anything about the cleanliness of the bedding?—A. Yes, sir; my girl is so clean, nobody can be more clean than our Mary—the nurse I am speaking of—and she told me all the time that she got all the clean bed-clothing she wished, a good mattress, and everything just clean. She could not stand it there if it was not clean.

Q. You saw for yourself whether it was clean or not?—A. I did.

Q. Were the neighboring beds of the same character?—A. All over they were the same.

The testimony of Rev. Felix Barrotti is given here at length from his opportunities of observation, and his high character as a priest and philanthropist:

Rev. FELIX BARROTTI sworn and examined.

By Mr. SARGENT:

Question. What is your profession?—Answer. I am a Roman Catholic priest attending the colored people of the city of Washington, and the chaplain to the Home of the Little Sisters of the Poor, and the Children's Home in the northern part of the city.

Q. Where is your residence?—A. Eleven hundred and nineteen Fifteenth street.

Q. Have you visited the Freedmen's Hospital very often?—A. I have been attending the Freedmen's Hospital as a Catholic clergyman since 1857, the first of September.

Q. How often have you visited the hospital?—A. As a priest, I have attended sometimes two or three times a week, and then again it would be a month before I was called. It all depended on circumstances. I only had charge of the Catholic portion, and of course whenever there was any one needing my service the doctors were always kind enough to send for me. So whenever they needed my services I was there, sometimes two or three times a week, and I generally went there every fifteen days.

Q. What can you say with reference to the general cleanliness of the hospital during the time you have known it?—A. Do you extend this time to the whole ten years, or do you divide it?

Q. Begin and tell it as you have seen it from time to time.—A. As far as the general cleanliness is concerned, I always saw it clean and regularly clean. Inasmuch as I knew the very days that the hospital was to be cleaned and scrubbed and all that, I would not go on those particular days. The only complaint about cleanliness, as I suppose I am to tell the whole truth—

Q. Certainly.—A. It was only that about nine years ago, or something like that, there was a little smoking in the rooms, which, especially in the winter, I thought disagreeable to the patients; but of late I have not perceived it. There was a smoking in the rooms, and of course, especially in the winter, the windows not being open, I thought it was disagreeable.

Q. Do you mean the smoking of the stoves?—A. No: the smoking of pipes by the patients.

Q. How long ago was that broken up?—A. I have not perceived it for two or three years past, that I know of.

Q. Were you there last summer during June, July, August, and September?—A. I could scarcely say what times I was there, because I have no memorandum of it, but I have been there generally, either I or my assistant, regularly. There has not been a month that we did not go.

Q. Did you find the condition of the hospital during those months as you have now represented it?—A. I have always found it clean as far as I have seen it.

Q. You have been there during the last month or two?—A. Yes, sir.

Q. Do you find any difference in the condition of the hospital?—A. I find no difference, only that I find a different order at the door, that I was not admitted in on account of not being known by the person that was at the door. I was told that he had orders to let no one in unless he knew who he was. That was the only difference.

Q. You found some impediment in getting in, but you got in?—A. I got in.

Q. Otherwise you found it all the same?—A. All the same. I have been through it all.

Q. Do you encourage patients who are of your faith to talk freely with you about the hospital, and allow them to do so if they wish to make complaints?—A. Always. I have advised a good many to go there. I have advised others not. I have sometimes advised persons to go rather to that hospital than to others, for the reason that I always saw everything was proper there as far as I could see, and at the same time I had free access there. I could always go to attend to them, and I had no reason to believe that they would not be well received and have all the attention from the doctors they needed. I advised many to go to that hospital rather than to others on that account.

Q. Have those whom you have visited professionally complained to you of their treatment there?—A. I never heard one single complaint of that. The only complaint was that they did not get tobacco enough. That is the only complaint I have ever heard, that they could not smoke enough. These are those who are not sick, the old people who came from the old Freedmen's Bureau.

Q. What class of patients are they generally; are thay poor, indigent persons?—A. As far as I have sent persons there, I have known them all to be really poor persons that had either to go to the poor-house or the Freedmen's Hospital.

Q. Have you ever noticed anything yourself about the food at the hospital?—A. I was there a great many times, especially in the morning, the time we go as Catholics to give communion to our people, and I have seen when they were taking their breakfast; of course they had to keep their breakfast from the people until I arrived there. I am not much of an expert in food, but I never knew of anything that was not proper or was not good, wholesome food. I never saw anything else. Then I have been there a good many times, especially in the evenings, in summer; generally I go in the afternoon in the summer time, and I never have seen anything that was not wholesome; but I was not there very often at those times.

Q. You were there during the summer time to which I have alluded. Did you notice that the food was the same as at other times?—A. I never noticed that the food was different. I cannot say about those months particularly, but I know that there was scarcely a month that I was not there, either myself or my assistant, and I never observed anything.

Q. As far as you have observed, it has been uniformly good from the present back?—A. Yes, at the times I was there.

See also the testimony of Mrs. Eliza Heacock, matron of the Home of Colored Women and Children, page 176; of A. T. Cavis, of the Government Printing Office, page 248; of Dr. D. S. Lamb, of the Medical Museum, *ibid.;* of Dr. R. S. Walsh, page 184; of George Dolly, *ibid.;* of William Syphax, page 182; of Dr. Spackman, page 178, &c. Dr. Hood testified before us as follows:

Q. Did you find that the condition of the hospital improved as you proceeded with your investigation, or as a result of it?—A. It did not so occur to any of the committee, I believe; it certainly did not to myself.

Upon such testimony the committee conclude that the clean condition of the hospital and the excellence of the food, which were apparent to them and could not well be denied, were not new, the result of the recent investigation by the board headed by Dr. Hood, but were part of a careful system that had been enforced by the surgeon in charge ever since he had had charge of the hospital. It is true that during the absence of Dr. Palmer for several weeks on leave last summer one of the water-closets was torn to pieces by the engineer and left in a dismantled condition, to the inconvenience and annoyance of some of the patients. But Dr. Palmer ordered this to be put in order on his return as soon as his attention was called to it, and its condition was due to the negligence of the engineer, who is also the plumber, who considered himself injured by a reduction of his wages, and neglected the plumbing in consequence. He was reported by the surgeon-in chief for discharge for neglect of duty, but no action has yet been taken thereon.

The committee personally inspected the books of the institution, examined the mode of keeping accounts, of making purchases, receiving and accounting for goods, rendering vouchers, &c., and believe the business of the government at this hospital is conducted with entire

honesty and economy. None of the money appropriated by Congress passes through the hands of the officers of the institution, except the extremely slender pay of the physicians. Dr. Palmer's salary is $1,400 per year. He graduated from the Maine Medical College in 1838, practiced in the city of Gardiner, Me., till the war broke out, then went into the Army, and was first a regimental surgeon and then a surgeon of volunteers, and was assigned to duty in various parts of the Army. He had charge of Lincoln Hospital, in Washington, one of the largest hospitals at the time in the city. He served on the battle-field at Gettysburg, and then took charge of the hospitals in the Cumberland Valley under Dr. King. From there he went to Saint Louis and was superintendent of hospitals in the vicinity of Saint Louis under Dr. Mills. He then went to Annapolis and had charge of St. John's College Hospital till the war terminated, and at the same time was on the board of examiners for officers performing the duties of medical officer.

Dr. Purvis also receives $1,400 per annum and Dr. Glennan $1,200. A perusal of the testimony on pages 275, 278, 289, 290, will show that these physicians are skillful men. The testimony is abundant that Dr. Palmer maintains a sharp competition among dealers, and purchases at the lowest rates the best goods in the market, and of wholesale dealers. See the testimony of W. H. Hoover, of the Center Market, page 146; of W. Wolf, food-inspector under the Board of Health, page 148; of R. Hartwell, page 149, and S. Auth, page 150, both butchers; of W. Clary, of 923 Louisiana avenue, produce dealer, page 151; of T. J. Mayer, of the firm of W. M. Galt & Co., flour and feed dealers, page 156; of J. A. Hamilton, of the firm of Barbour & Hamilton, grocers, page 157; of Calvin Witmer, general grocer, 1918 Pennsylvania avenue, page 159; of William Dix, butter-dealer Center Market, page 160; and of W. De Mott, general merchandise, 921 Pennsylvania avenue, page 161; J. T. Rabbitt, produce-dealer, Center Market, page 246. All these gentlemen concurred in stating that Dr. Palmer is a close buyer, exacting the lowest wholesale prices and the best articles, with full weight and measure. The testimony of Mr. Hamilton is a fair illustration of that of all these persons, who are connected with the most reputable firms in the city:

JOHN A. HAMILTON sworn and examined.

By Mr. SARGENT:

Question: Of what firm are you a member?—Answer. Barbour & Hamilton.

Q. Where is your store?—A. On Louisiana avenue between Sixth and Seventh streets.

Q. What goods do you deal in?—A. All kinds of groceries.

Q. Do you furnish goods to the Freedmen's Hospital?—A. We do.

Q. How do you get the trade?—A. Through Dr. Palmer.

Q. Why does Dr. Palmer give it to your firm?—A. That is more than I can say, unless it is that he can buy cheaper from us than from any one else.

Q. Does he inquire your prices before doing it?—A. He does.

Q. What is his course of dealing in that respect, as far as you know?—A. He comes around and inquires the prices, and, I suppose, goes to other places and inquirrs.

Q. Do you sell as low to him for the hospital as you do to anybody?—A. We do. We sell at wholesale prices.

Q. Do you ever make him any presents?—A. Never.

Q. Or furnish him goods to his own house cheaper because he buys of you?—A. I do not think I ever furnished five dollars of goods to him for his own house.

Q. You do not deal with him for his own house?—A. He has bought a ham or two, I think.

Q. And paid for them?—A. Paid for them.

Q. The market-price?—A. The market-price.

Q. Do you furnish the hominy for the hospital?—A. We have furnished part of it.

Q. During the past year?—A. Yes, sir.

Q. What quality of hominy do you furnish?—A. Good; with the exception of one barrel

which was returned a few days ago. That was good, but the grain was too large he said. Nothing was amiss with the hominy except that it was too large in the grain.

Q. Have you ever, either by accident or design, furnished any musty hominy for the establishment?—A. No, sir.

Q. You always furnish a good article?—A. A good article, always.

Q. What other articles have you furnished?—A. Sugar, coffee, tea, canned goods, rice, bacon, occasionally.

Q. Is the bacon good?—A. No. 1.

Q. Just as good as you sell to anybody?—A. The same quality we sell to our best customers.

Q. What is the article of coffee?—A. Rio.

Q. Is that a good article of coffee?—A. Choice Rio.

Q. What article of tea do you furnish?—A. Green and black.

Q. The same kind of tea you sell to your good customers?—A. The same as to our regular trade.

Q. Do you sell to the hospital as low as you do to your most favored customers?—A. As low as we do to any of our wholesale trade.

Q. And furnish as good articles?—A. As good articles.

Especial attention is directed to the testimony of Mr. Mayer, of the firm of Galt & Co., who have supplied flour to the hospital, because some question has been made as to the varying amounts of flour furnished in different months, and the inference drawn that it was inconsistent with fair dealing. He testified:

Q. Do you furnish flour to the Freedmen's Hospital?—A. Yes, sir.

Q. How long have you furnished flour to it?—A. Since 1874.

Q. What kind of flour do you furnish?—A. We furnish to them high-grade family flours.

Q. To whom do you deliver the flour?—A. Mostly to the bakery of Henry Kaiser.

Q. Where is the rest delivered to?—A. Now and then they get a few barrels at the hospital for pastry purposes, I suppose.

Q. Do you furnish about the same amount of flour each month, or are there variations?—A. Sometimes it varies a little, according to the number of patients, I suppose, and then, again, sometimes they are out about the 27th or 28th of the month, and then they order, perhaps on the 27th or 28th, twelve barrels more, which is the usual complement, and of course that makes it for that month a larger delivery, and next month it is generally that much smaller.

Q. Suppose you take three months together. Will one period of three months average with another period of three months about?—A. I presume it would, unless they should have an unusually large number of patients at one time.

Q. Do you know anything about Dr. Palmer making a purchase of an extra amount of flour under the anticipation of its rising in price?—A. Yes, sir.

Q. When was that, and what was it?—A. It was last spring I think, when flour was low, and the tendency was that flour would advance, and it did advance. I told Dr. Palmer that flour was about as low as it was going to be, and that I thought it would advance. We thought it would be an advantage to the hospital to engage a month's supply in advance. It was the first of the month. I told him that it undoubtedly would advance. He said, "Well, we do not want that flour delivered all at once; we want it delivered the same as usual." I told him it would not make a particle of difference about the time of delivery; he could engage what they wanted during the month; he could count up what they had had during the last month and give me the order for the same number of barrels, and I would deliver it to suit him at the rates which then existed. I suppose the hospital was benefited about seventy-five cents or a dollar a barrel by his making the purchase.

Q. It made the apparent purchase for that month pretty large?—A. I think it was pretty large, because he bought, perhaps, a few barrels more than he actually needed for that month.

On examining the accounts of flour furnished, there seemed to be some other element to be considered besides the occasional purchase of flour before the commencement of the month in which the bulk of the amount purchased would be used, because a less number of patients sometimes consumed apparently more than a greater number at another time, though the amount used in one year seemed to correspond with the amount used in another and bear the same proportion to the general number of patients. To solve this, the committee called Dr. Reyburn, Dr. Palmer's predecessor at the hospital, and directed his attention to

the same state of facts under his administration. His explanation was full and satisfactory. He said:

Dr. ROBERT REYBURN sworn.

By Mr. SARGENT:

Question. I have here a monthly statement of the amount of flour used in the Freedmen's Hospital when you were in charge of it. Examine the list, if you please. [Handing list to the witness.] Explain how a larger number of barrels were used some months in proportion to the number of patients than others; for instance, why, in some months, there seems to be a slightly less number of patents and a slightly greater amount of flour used, and another month more patients and the reverse, and so on. How do you explain that?—Answer. In the first place, as a rule, there is more flour used in the winter months than in the summer months: that is, the men eat more in cold weather: and, of course, with such a number of persons that makes quite a difference. Secondly, it depends a good deal on the character of the patients. Where many persons on low diet, taking beef-tea and things of that kind, they eat very little solid food; and, of course, in that way you will use less flour, and the consumption of it will be less. If your patients that are brought in are brought in, as very often patients are brought in there, that are not very sick, many of the colored people who come in would get well outside, except that they have not the means of nourishment, of being cared for; and that class, of course, really require very full diet, and receive it; and, of course, there is quite an amount of food consumed in that way.

Q. Your explanation would be, then, that a less number of patients might use a larger amount of flour owing to their requiring more flour for their particular ailments than even a larger number when of a different character of patients?—A. Yes, sir.

Q. And that would vary from month to month?—A. Yes, sir; if we had a number of cases of typhoid fever, they would not use so much solid food, but liquid food. Another way would be this, for the same system was adopted while I was in charge of baking the flour outside: sometimes at the end of the month there would be a little balance owing to the baker, or perhaps he might want the flour, and we would send the flour a little in advance of the first of the month. We would order it near the end of the month, and about the 28th of the month five barrels would be sent to him, and they would lap over to the next month.

Q. That would account for such irregularities, comparing one month with another, or even the number of patients?—A. Exactly; and then in winter, as a rule, the patients consume more, and in feeding two hundred or three hundred persons that would make quite a difference.

Q. Did you consider it an economical way of supplying bread to the hospital to have it baked outside, pound for pound?—A. Yes, sir.

Q. You found it to be so in your experience?—A. When we adopted that plan, it was after, for several years, we had received bread from the commissary. After that was stopped we had to provide our own bread. We found, on calculating, that it would be much less expensive to have it done in this way than to employ a baker, build an oven, and have fuel and labor to attend to it. I think so still. It is decidedly economical.

Dr. Palmer also testified, upon this point, as follows:

As to the apparent variation of the amount of flour used in different months with the same number of patients, it often happens that at the end of one month the baker has received two or three barrels of flour more than he has returned bread for, which flour is used in the next month, and at the end of another month, perhaps, he may have furnished two or even three days' bread for which he has not received the flour. In this way a variation of five or six barrels may appear in the monthly statement, when the same number of barrels are used each month. But experience shows that the same number of patients in a hospital will eat more bread in some months than they do in others, particularly where the state of the health of the patients is varying, and where they are constantly changing, some going out and new ones coming in. The same is true of other articles of diet. More corn-meal is used some months than others for the same number of patients.

On the first of July, 1877, the hospital discontinued furnishing rations to patients in quarters, and to the children of the Colored Orphan Asylum, which before that time had formed a part of the institution, though the names were not dropped until August 1, and the names of patients in quarters were carried on the roll until October 1. This was owing to reduced appropriations, and separate appropriations made by Congress for the orphans, and resulted in a considerable diminution of the consumption of flour and other articles.

With regard to the contract for baking bread for the hospital, we are

inclined to think with Drs. Reyburn and Palmer that it is an economical arrangement, The hospital is on leased premises, on which it is not desirable to make improvements at government expense, and it is not a permanent institution, and has never been so regarded by Congress. If, however, Congress shall see fit to make an appropriation to build a bakery, there is no important objection to be urged. The bread now and usually furnished to the hospital is of good quality. The committee endeavored to arrive at the truth of the allegations that poor meats are furnished at the hospital. Directing attention to the testimony of Hoover, who furnishes it, and of other butchers who know his modes of dealing with the government at this and other institutions, and to that of the food-inspector, the committee say that it appears that twice, perhaps three times, during the extreme heats of last summer, a portion of the meat cooked at the hospital was slightly tainted from a temporary insufficiency of ice at night. These accidents, which might happen in any family, do not show that the meat was not good when delivered. The committee do not have the slightest doubt that the meats delivered at the hospital were good, merchantable meats.

Dr. Palmer's attention was called to the question as to the number of eggs used at the hospital, and he testified:

Q. Something is said here about the purchase of eggs for the hospital. It is said, "It appears that from 110 to 190 dozen eggs a month were purchased, an average of more than half a dozen a month to each inmate."—A. In regard to the eggs, I will say we use a large quantity of eggs as a proper article of diet for the sick, and find them an economical article of diet, too. We issue for the ward diet 276 eggs, 24 dozen per week; for custards and corn-starch we use 84 eggs a week; for the nurses' table 48, that is four dozen, on Sunday morning, and for the steward's table one dozen on Sunday morning; and for the dispensary, to make cod-liver emulsion and milk-punch, 28 eggs a week, making 508 eggs a week; that, multiplied by four, gives 2,032 eggs in the four weeks; divided by 12, it gives 170 dozen of eggs in four weeks. That is about the average.

By Mr. EATON:

Q. For a month would be a little more?—A. Yes, sir; some months it runs up from that and some months it runs down; that is about the average of the eggs we use here in the hospital.

By Mr. SARGENT:

Q. Could you get along with less eggs than you use here?—A. We could, but I fear they would call it starvation diet.

On the question of eggs John T. Rabbitt testified:

By Mr. SARGENT:

Question. Where is your place of business?—Answer. In the Centre Market.

Q. What business are you in?—A. Produce dealer.

Q. Do you furnish any articles to the Freedmen's Hospital?—A. Yes, sir.

Q. What?—A. Chickens, eggs, butter, and cabbages when they are in season; but cabbages not being in season, kail at this time of the year. In summer time I furnish vegetables, such as sweet-potatoes, tomatoes, &c.

Q. How long have you been furnishing eggs and chickens to the hospital?—A. About seven years; between seven and eight years.

Q. You were furnishing them when Dr. Palmer went there?—A. Yes, sir.

Q. And have continued since?—A. Yes, sir; I have continued since.

Q. Do you furnish about the same amount of eggs in the season that you formerly did?—A. The same now as when I first went there; 30 dozen is the usual order.

Q. Where do you deliver them?—A. At the hospital. Sometimes the hospital wagon comes for them, and I put them in the wagon.

Q. Do you furnish good, fresh eggs?—A. Yes, sir; everything I send there is fresh. If it is not fresh they send it back again. They are very strict about the stuff out there.

Q. How do you deal with them as to prices compared with what you sell to other people?—A. For a heap less money. They buy by the quantity, and we generally put things to them a cent or two cents less.

Q. What do you get for eggs?—A. Thirteen cents a dozen this month.

Q. What is the average price this month to persons who do not take large quantities?—A. Fifteen cents retail.

Q. Do you pay anybody a percentage?—A. No, sir; I never had ten minutes' talk with any person out there. Dr. Palmer I never spoke to five minutes in my life; never saw him more than four or five times.

Q. You have no arrangement, and have not had any arrangement, by which anybody but the government was to profit by your trade?—A. That is all. Dr. Glennan sends the order.

Q. No understanding with Dr. Glennan that you are to deliver a less quantity than is charged to the government?—A. No, sir.

Q. Do you deliver less than are charged?—A. No, sir; the order generally runs even, and when they send an order for fifty pounds, if the package is fifty-two or fifty-three I just send it, only charging according to the order.

Q. I understand that you deal fairly and honestly with the government?—A. Yes, sir; they get every pound. We weigh everything that goes out there.

The committee examined the pay-rolls of the hospital and found they sustained the following statement of Dr. Palmer:

By Mr. SARGENT:

Q. We want a statement from those vouchers and an opportunity to examine fully the original vouchers, but I wish to ask another question now. It is stated in this paper that the doctors who made the investigation, at the request of Secretary Schurz, "find a difficulty in making it perfectly evident why they took no notice of the fact that an assistant engineer discharged in May, 1875, was borne on the rolls at the rate of $75 a month until October, 1875." What is the fact in reference to that?—A. When I came here there was an engineer and an assistant engineer. The assistant engineer was receiving $25 a month; he and the engineer did not agree very well. I kept him along to take charge of the engine at such times as the engineer was off, and finally he was discharged in October, when his last voucher was paid, and he received every dollar of the money for which vouchers were drawn. Nobody else could draw his money but him.

Q. He was not discharged in May, but was discharged in October?—A. He was discharged in October.

Q. Did he work up to October?—A. He worked up to October.

Q. It says here at the rate of $75 a month?—A. It was $25 a month.

Upon the point of idiots and partially insane persons being in the hospital, like Tom Johnson, who needs constant watching, and is constantly watched, to keep him from mischief, the committee report that he and all such came down from the old contraband camps, and there is no law for disposing of them otherwise than by retaining them at this hospital. As the insane did not become such in the District, they cannot be taken in at the St. Elizabeth Insane Asylum, and applications for such admission have been refused. No such persons are now admitted at the Freedmen's Hospital, and its patients, except these legacies of the past, are made up of indigent sick persons, regardless of color. There is no discrimination on account of color either in the reception or treatment of patients, or in employing help at the hospital. The proportion of original occupants is over one-third of the whole number.

On the point of bodies being buried on the hospital grounds, much insisted upon by several of the complaining witnesses, the committee find that some of the students had caused to be buried portions of a human skeleton, from which the flesh had been removed by dissection, being the part of a skull, pelvis, and thorax, and some other small bones, for the purpose of maceration, and with intent to preserve them as specimens, as is the custom of medical students. The doctors knew nothing of the burying. The committee called Dr. D. C. Patterson, the coroner of the District, whose testimony will be found on page 62. He stated that the bones had nothing on them except such small particles of muscular matter as were left from dissecting, and there was no odor. They were bones preserved by a medical student. Dr. P. T. Keene, coroner, page 64, testified that he was present; that "my jurisdiction over the matter extended to the discovery whether there was a nuisance injurious to health on the premises. I found that the bones were not

offensive, and for that reason took no official action." Perhaps this matter is not worth the space devoted to it, as neither of the officers of the hospital knew anything about it even if it had been the actual burial of a body as alleged, while in fact it was nothing of the kind, as shown by the officers of the law qualified by experience, medically and otherwise, to speak understandingly.

In conclusion the committee say that after investigation into the management of the affairs of the Freedmen's Hospital, as shown by the testimony herewith submitted, they concur with the information officially laid before them by the Secretary of the Interior, in the form of two former reports, that the affairs of this institution are well conducted by its present head, Dr. Palmer, and his medical assistants, Drs. Purvis and Glennan. It would be a misfortune to the institution to lose the services of these gentlemen, and no others who would be likely to take their places for the low salaries paid to them would have the skill and experience that these men have, or administer the affairs of the hospital so ably. The appropriations for the hospital are not sufficient to put it and keep it up to grade of a first-class hospital. The buildings are not suitable for such an one. More nurses could be used to advantage; a special superintendent, under direction of the surgeon in charge, to watch over the details of internal administration and keep the nurses and other employés under daily and nightly surveillance, and a larger fund for clothing, so as to burn up all the clothing worn by patients on their admission, and cloth them anew, as well as other provision for idiots and demented persons, would enable the surgeon-in-chief to bring up the character of the hospital. But all the money appropriated for the hospital seems to be well applied, and as good results produced as possible with the means furnished.

TESTIMONY

TAKEN BY THE

SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,

CONSISTING OF

SENATORS SARGENT, ALLISON, AND EATON,

RELATIVE TO

THE MANAGEMENT OF THE FREEDMEN'S HOSPITAL.

WASHINGTON, *Thursday, February* 7, 1878.

The subcommittee met at the room of the Committee on Appropriations.

Dr. G. S. PALMER sworn and examined.

By Mr. SARGENT:

Question. Are you connected with the Freedmen's Hospital?—Answer. I am surgeon-in-chief.

Q. When did your connection with it commence?—A. On the 20th of March, 1875.

Q. Have you held that office ever since?—A. I have.

Q. Who was your predecessor?—A. Dr. Robert Reyburn.

Q. Who are the other principal officers of the institution?—A. Dr. C. B. Purvis and Dr. P. Glennan.

Q. What position does Doctor Purvis hold?—A. He holds the position called, sometimes, ward physician.

Q. And the other?—A. Executive officer.

Q. Is there any limit by law to the number of physicians?—A. Not that I know of.

Q. Are there any other physicians employed about the hospital except those you have mentioned?—A. No physicians at present. There was another physician when I went there. Doctor Harris was then serving in the capacity of physician there, and Dr. A. T. Augusta was also there for some months—over a year, indeed.

Q. Have you reduced the number of physicians?—A. I have.

Q. On whose order are patients admitted to the hospital?—A. That of the Secretary of the Interior.

Q. In every case?—A. In every case.

Q. Have you or has any other officer of the institution discretion as to the class of patients you receive?—A. Only myself. If a patient comes there who comes within the limits of the hospital, that is to say,

a proper person, I recommend him to the Secretary, and the Secretary gives the order.

Q. You do not receive patients in advance of such order?—A. Only in cases of emergency, where there is distress or anything of that kind.

Q. And you represent the facts to the Secretary, and his order is conclusive whether they remain or leave?—A. Yes, sir.

Q. How many patients are there now at the hospital?—A. Two hundred and twenty-six.

Q. Is that about an average number of what you have had there?—A. Yes, sir.

Q. What are the limitations you speak of as to those who are received?—A. That they shall be needing hospital-treatment and absolutely poor; that is, impecunious, unable to take care of themselves.

Q. Is any difference made on account of color or sex?—A. No difference of color or sex.

Q. Do you know what the origin of the hospital was?—A. The hospital was established under the Freedmen's Bureau, for the care of the freedmen and refugees and those persons who were brought here from various hospitals when that institution was broken up. When that occurred, there were persons whom they were unable to discharge from the various hospitals that belonged to that institution, and they were collected here into this one hospital in this District; some brought from Kentucky, some from North Carolina, and different States in which those hospitals had existed.

Q. Those hospitals were connected with the contraband camps, as they were called?—A. Yes, sir; and the Freedmen's Bureau.

Q. Were there any idiotic persons among those?—A. There were; six or seven such persons were among those people that were brought here, and are still here in the hospital.

Q. Are patients with infectious diseases received?—A. No contagious diseases. There is a distinction between infection and contagion; some of the diseases that are treated in the hospital may be, under certain circumstances, infectious, but as a general rule no cases of infectious or contagious diseases are received. There are certainly no contagious diseases.

Q. Is care taken with persons having infectious diseases about their having communication with other patients?—A. There is. They are not mixed up miscellaneously, but are isolated; that is to say, they are placed in different parts of the wards that they will not communicate their diseases. But the infectious character of the disease is removed as soon as possible; that is to say, they are cleaned and put under treatment so that there is no danger from infection after they have been there a few hours.

Q. How many cooks have you in that establishment?—A. Five all the time and six part of the time.

Q. Have you selected those cooks yourself or has there been a change in them during the last three months?—A. There has been no change in the main cooks there for seven or eight years.

Q. That is, you kept on the cooks you found there?—A. I have kept the cooks I found there.

Q. Are those cooks cleanly and competent?—A. They are competent and tidy.

Q. Have they been recently more careful about their cooking than they were four or five months or a year ago?—A. Not that I know of or have discovered.

Q. The subcommittee the other day examined the dinner upon the

table, which we found upon our visit there. Was that a fair sample of the dinners as they have been?—A. That is the dinner that we have every Saturday—that was the day you were there—every Saturday since I have been there and before, because we have the same bill of fare that was in use when I went there.

Q. Was that dinner any better cooked than ordinarily?—A. No better cooked than ordinarily.

Q. State what the fare was that we found there that day, or rather, of your Saturday dinner?—A. The Saturday dinner is beef-stew, potatoes, and bread; and soup is made with the stew. That is the mess-room diet. Then about one-half of the patients are fed in the wards; have their meals carried to them on trays; about one hundred and ten or thereabouts, and their diet is anything that the physician thinks they need; that is, it has a very wide range. They have custards, they have beef-tea, they have soup, they have toast, and any kind of pudding the physician seems to think best; a large variety, which I cannot think of now.

Q. That is to say, for patients who are in delicate health?—A. Sick persons in the wards.

Q. You vary their food according to their necessities?—A. According to the case.

By Mr. EATON:

Q. As a physician you treat those people who need care in their diet as you would me in my house? Is that what you mean?—A. Exactly.

Q. If it was beef-tea, if it was toast, if it was chicken-broth, or whatever it might be that you thought the patient needed, you would give?—A. We prescribe the diet the same as medicine; that is to say, after getting through with the prescriptions of medicine then we prescribe the diet and put it down on a slip of paper and send that to the kitchen.

By Mr. SARGENT:

Q. Has that been so before the last three months?—A. It has been so always; since I have known the institution, at any rate.

Q. Do you furnish this food in sufficient quantities to satisfy hunger?—A. An abundance of it. As proof of that, there is a surplus of food each day, and the poor people of the neighborhood come in and get it. We issue it in the form of scraps. We supply from five to fifteen families with the surplus food; that is to say, on some days there is enough left for some fifteen families to get little scraps. We send down a paper to the steward to give such and such a person some scraps. He gives them, say, one pound of pieces of bread and a pint of soup, as things may be left from the dinner. There is always more or less left from the dinner.

Q. Are these poor families to whom they are supplied?—A. Poor people, coming there in rags and tatters, and who live around in the neighborhood or anywhere in town—beggars.

Q. That is furnished without price?—A. Yes, sir; that is the surplus food which has been on the table, and is given to them the same as you would from anybody's house in the form of cold victuals.

By Mr. ALLISON:

Q. State the location of the hospital.—A. It is located above the boundary, between Fifth and Seventh streets.

By Mr. SARGENT:

Q. What buildings does it occupy?—A. The buildings that are leased from Howard University.

Q. How many buildings are there? Describe them.—A. There is a large brick building four stories high; I should think about 80 by 60 feet. That is a rough guess. The ground occupies two squares between Fifth and Seventh streets, above the boundary, just outside of the boundary of the city. Then there are four wooden buildings in the form of barracks, two stories high, about 120 feet long, and, I should say, about 30 feet wide. Each of them contains two wards. Those wards contain about 30 beds each. That makes eight wards, and there is a capacity of 320 beds. There are not quite as many beds. We estimate the capacity of the hospital at 300 beds.

Q. Recurring again to the question of food, what care is taken in purchasing proper food; your meat, for instance?—A. I purchase the meat by contract made at the beginning of each six months. I issue proposals or go around and see different butchers and see what propositions I can get, and then take the one that seems to be the best for the interest of the institution.

Q. Do you get the lowest market-price?—A. Yes, sir; the lowest market-price for the quality.

Q. What is the quality of the meat which you buy?—A. The meat is not the first-class meat, but good, sound, wholesome meat, such as makes good roasts, good soups and stews and steaks, and it is all of good quality.

Q. Is it food adapted to the hospital?—A. The food best adapted, economically, and for a hospital.

By Mr. EATON:

Q. You say you contract with the butcher every six months?—A. Yes, sir; for six months.

Q. Does he furnish you for six months at a given rate?—A. Yes, sir.

Q. But there may be very great changes in the value of beef in that time. Beef may be worth in the month of January twelve cents a pound, and it may be worth in March two cents more or two cents less.—A. In making his proposition he takes into consideration the probabilities of the market.

Q. Suppose that there should be an increased value, where are you then?—A. I am on the agreed value.

Q. Suppose it decreases in price?—A. Then I have to pay the contract-price. For the last year I have paid eight cents a pound for fresh meat. This year I am getting it for seven cents. That was the understanding and agreement with the butcher at the beginning of the year, and then at the beginning of July again, and the price has not varied. It has been the same all the while. Sometimes I get the advantage and sometimes he does.

By Mr. SARGENT:

Q. As a rule, do you get things at the lowest market-price?—A. I am sure of that, because I make it a business to inquire diligently what the market is.

Q. An allegation has been made that you "buy beef's heads and legs, often putrid, and chop these up and have them cooked into odious messes." What truth is there in that statement?—A. No truth at all; there is never any beef's head, or anything else bad, that comes into the hospital that I know of. There are no bad pieces of meat; indeed, they are excluded by the agreement.

By Mr. ALLISON:

Q. Who superintends the procuring of the meats?—A. The meats are delivered by the butcher.

Q. But to whom?—A. To the steward.

Q. To him personally?—A. To him personally. The steward receives all the meat, examines it, weighs it, and sees that it corresponds to the order. He knows the order that is given and the amount each day, and his business is to take it right on to the scales and weigh it and examine it carefully, and then put it into the ice-chest and issue it to the cooks.

Q. Who is he?—A. His name is Chapman.

Q. How long has he been there?—A. I found him there. He has been there about four or five years, I should say.

By Mr. SARGENT:

Q. With regard to your pickled pork and beef, what quality of that do you buy?—A. We buy good, sound meat. What we call No. 1 Western shoulders is one quality; and of hams of the first quality we use a good many. Then the pork has all to be sound, good pork.

Q. Do you have these things inspected to see that they are?—A. They are inspected by the inspector in the market. The inspector in the market examines the meat before it leaves the stall.

By Mr. EATON:

Q. Of course it may turn out that your pickled pork is not what you thought; and you have the privilege, beyond all question, I suppose, if you open the cask and find that it is imperfect, to immediately send it back or cause it to be taken back?—A. I do send it back whenever there is anything not according to the agreement; and that thing has been done. Meat has been sent back because it was not according to quality.

Q. Is your salted beef, as we call it in New England, brought from the West in barrels?—A. We do not use salt beef, but corned beef. The corned beef is all made here.

Q. I was about to ask whether the corned beef or salted beef was corned here or brought in barrels?—A. The corned beef is all prepared and corned by the butchers.

Q. A certain piece?—A. A certain piece delivered.

Q. Understand me. Is there a contract as to what that corned beef shall be—from what part of the creature?—A. No sir; there is no contract as to that.

By Mr. SARGENT:

Q. Is it freshly pickled or corned for you?—A. Yes, sir; it is.

By Mr. EATON:

Q. How often do you have your supplies of corned beef brought to you?—A. There are two corned-beef dinners in the week. The corned beef is brought in the day that it is used. It is never kept over.

By Mr. SARGENT:

Q. Do you use mackerel?—A. Yes, sir.

Q. How do you buy that, and what is its quality?—A. We buy mackerel by the barrel, No. 2's, and they are good quality inspected mackerel.

Q. Are those inspected by the inspectors at the market before being delivered?—A. No; they are inspected where they are put up—where they are prepared for market. They always have the inspector's mark on them, and we are governed by that, of course.

Q. Are those you use good?—A. We have found them good, I believe. The steward can tell better about that. There may have been one barrel returned, perhaps. My impression is that there has been a

barrel or two returned during the time I have been there. If they are found not to be good, his orders are to send them back at once.

Q. Is the kind of bread we found at the hospital last Saturday the average bread?—A. The average bread since I have been there.

Q. Cooked by the same cook?—A. By the some baker and of the same quality of flour, as near as we get it. We vary the quality of the flour a little, according to the market, but we pay a good price for flour, from $7 to $8 in the years that have gone by. The bakers require two brands to make good bread. We buy the flour of the largest dealer in the city, at wholesale prices, and send it to the baker, and he issues to us a pound of bread for a pound of flour.

Q. Who is your baker?—A. His name is Kaiser, a German.

By Mr. ALLISON:

Q. Where does he live?—A. At the corner of O and Sixth streets.

By Mr. SARGENT:

Q. Is he carrying on business aside from baking for you?—A. Yes, sir; a regular bakery.

By Mr. ALLISON:

Q. Who is your butcher?—A. William H. Hoover.

By Mr. SARGENT:

Q. Is he a man of considerable business?—A. He keeps a stall in the market and does a large business in the market, and has ever since I have known him and for years before.

By Mr. ALLISON:

Q. Is he the only contractor you have?—A. No, sir. Mr. John Kelly contracted one six months since I have been there.

By Mr. SARGENT:

Q. What do you do about the hominy that you use? What care do you take in selecting that?—A. We order a first-class article, and if it is musty, or there is anything bad about it, we send it back, do not receive it. Hominy has proved to be poor several times, and we have always sent it back in those cases and had good in its place.

Q. How liberally do you distribute potatoes to the mess-table?—A. Every day.

Q. Do you give as many potatoes as they want?—A. Yes, sir.

Q. A Mr. Johnson states that "a solitary potato in its jacket, about the size of a hen's egg, is allotted to each patient at dinner;" what truth is there in that?—A. That is totally untrue. So far as the jacket is concerned, sometimes the potatoes are not peeled; they are sent up so that they crack open in a nice condition. We do not propose to peel them. They keep warm better when we send them to the wards with the peeling on. The potatoes are always of good quality; and if they want one or five, they get them. If they do not happen to have enough, the nurses always come back and get more. There is no question at all about that.

Q. What do you furnish in the shape of tea and coffee?—A. For coffee, we get a good quality of Rio coffee and buy it by the sack. Of tea, we get the black and the green tea; sometimes for the sick we have the tea green; and that is bought in quantities somewhat according to the necessity; sometimes we buy it by the chest and sometimes in smaller quantities.

Q. How about the quality?—A. It is always of good quality.

Q. Are the tea and coffee well made?—A. The tea and coffee are well made. The coffee is half a pound to the gallon.

Q. Can you estimate the cost of the provision of each person a day?—A. In the present year the amount allowed for subsistence is $1,500 a month. That would be for twelve months $18,000. At 250 patients and nurses, which the hospital averages, that allows twenty cents a day for subsistence per head.

Q. Then a statement that the cost per day is seven cents is entirely erroneous, is it?—A. Entirely so.

Q. Who handles the money of the institution that is expended for provisions, &c.?—A. The Secretary of the Interior.

Q. Does any money pass through your hands or those of any officer of the institution?—A. Not a dollar.

Q. What is the system in regard to it?—A. I have the vouchers here and can show you just exactly how the whole thing is done.

Q. Describe it.—A. I make the purchases, examine the goods, and examine the bills which are presented for the goods. I then send each month a statement of the expenses of the hospital and an abstract of each man's account and approve it, and it is paid at the Interior Department. For instance, here is Mr. Galt's bill for flour in the month of February, 1877.

By Mr. EATON:

Q. Mr. Galt, the wholesale dealer?—A. Yes, sir; W. M. Galt & Co.

By Mr. SARGENT:

Q. William M. Galt & Co. furnish you flour. Here I see in the voucher you have just handed me three items, one $136, one $133, and one $58, making in all, $327, February 28, 1877. Was the flour comprised in these items bought at the lowest market-price?—A. At the lowest market-price. The way that is done is this: He comes every month and tells me what he will furnish flour the next month for, and I then go down to Barbour & Hamilton and several of the other wholesale dealers and find out what they will furnish it for. Sometimes I go before I see him, sometimes afterward, but before I give him an answer. Then, after I have found out what the probabilities are for flour for that month, I say to Mr. Galt, "I will take your flour," or not; but as a general rule I have taken it from him because he has dealt square according to the market.

Q. Has there been any understanding between him and you that a larger price should be charged than the market allowed in order that you might make a profit from it?—A. No, sir.

By Mr. EATON:

Q. Or that you and he might divide?—A. No talk of the kind. There is nothing of the kind.

By Mr. SARGENT:

Q. There could be nothing of the kind without dishonorable conduct on the part of Galt & Co.?—A. Certainly not.

Q. They are large and reputable dealers, are they not?—A. Yes, sir; the largest flour dealers in the city.

Q. Is that the general course of your dealing with other dealers?—A. Yes, sir.

Q. This bill, being so certified by you as correct, goes to the Secretary of the Interior?—A. Yes, sir; and the disbursing officer of the Interior Department pays it; and there is a receipt attached to it, which is not filled out on this. My clerk fills out this receipt, "Received from R.

Joseph, disbursing officer, the above amount," and then they sign a duplicate. They sign these vouchers in duplicate. I keep one and they collect their pay on the other, and that other is kept in the Interior Department.

Q. These accounts are subsequently audited, according to the usual course of business in the Treasury?—A. I do not know what becomes of them. That is the end of my knowledge of them.

Q. What is your compensation at the hospital?—A. The first two years and a half it was $200 a month. Under the present arrangement the law itemized the expenditures, so that it is only $1,400 a year the present year.

Q. Do you receive any compensation from the Howard University?—A. Nothing at all.

Q. This is all the compensation you receive for your services?—A. Yes, sir.

Q. You give your time to this hospital?—A. I give my whole time to the hospital.

By Mr. EATON:

Q. Have you no outside practice at all?—A. Occasionally I have a few old friends who come and I attend them, but it does not amount to anything hardly.

By Mr. SARGENT:

Q. You are there at the hospital every day?—A. Every day unless when I have been sick, and that has been but a few times ever since I have been there.

Q. How many hours are you there?—A. I am there from nine o'clock till four or five generally, sometimes in the night, and Sundays the same.

Q. Do you visit all parts of the hospital every day?—A. No, sir.

Q. What is your course in reference to that matter?—A. I visit and have the charge of two wards, the two sick female wards. I visit them every day and prescribe for them; enter all my prescriptions in a book which is there to be seen; and then, if there is any important case in any of the other wards, I go and see that case; and if there is anything that seems to require my attention in any other part of the hospital, I go to it. I go to the cook-room and to the engine-room every day. On Saturdays I make a thorough inspection of the hospital with the other physicians. We all go at twelve o'clock or one o'clock, the same as we did the other day when you were there, through the whole of the hospital, look at everything—water-closets, and beds, and everything in the hospital entirely—every Saturday, and there has been no let-up on that since I have been there.

Q. What has been your education and experience or practice as a physician?—A. I graduated from the Maine Medical College in 1838, practiced in the city of Gardiner, State of Maine, till the war broke out, and then I went into the Army, and was first a regimental surgeon and then a surgeon of volunteers, and was assigned to duty in various parts of the Army. I had charge of Lincoln Hospital, in this city, one of the largest hospitals at the time in the city. The Surgeon-General, at the time of the battle of Gettysburg, told me he wanted experienced men in the field, and wanted me to go up to Gettysburg, which I did; and I took charge of hospitals in the Cumberland Valley under Dr. King. I then went from there to Saint Louis, and was superintendent of hospitals in the vicinity of Saint Louis under Dr. Mills, who was afterward

medical inspector-general of the Army. I have a letter from him, by the way. Then I went to Annapolis and had charge of Saint John's College Hospital from that time till the war terminated, and at the same time I was on the board of examiners for officers. There were two boards in the country, one at Cincinnati and one at Annapolis, for the examination of officers to return to hospital, to be sent to the field, or to be discharged, and I performed the duty of medical officer on the board in the summer at the same time that I had charge of Saint John's College Hospital. That was at the end of the war. Then the hospital was broken up. The first two years I was in the field. I was at the battle of Antietam.

Q. From the time you were relieved from duty until you took charge of this hospital, what were you doing?—A. I was at home in the State of Maine, in poor health, but I was engaged in various matters. I was in the legislature there a couple of winters, and I was practicing somewhat, as far as my health would admit, and doing some little city business and things of that sort.

Q. I understand you to say that the cooks who have cooked during the last three months at the hospital, you found there and have kept on?—A. Yes, sir.

Q. Are they as good cooks as are ordinarily employed in the large hospitals with which you have been connected?—A. Yes, sir. They are as good cooks as we generally find in that class of hospitals.

Q. It has been alleged that the bath-rooms and water-closets attached to the male wards of the hospital are kept in an offensive condition. What is the fact in reference to that?—A. The fact is that it is not true so far as I know. The physicians in charge of the wards have instructions to keep their wards in good condition, and they are competent persons to do so. The nurses are instructed to clean their water-closets every morning and to sweep their wards, to wash them twice a week, all of which is done, and the nurses are competent to do it; they say they do it, and whenever I go into the wards I find such things are done.

Q. Are the slops emptied into the bath-tubs?—A. No, sir.

By Mr. ALLISON:

Q. Does the water system of the city extend there?—A. The water is pumped up by the steam-engine into a large tank and flows into each ward freely. There is plenty of water.

By Mr. SARGENT:

Q. Are the utensils used by the cooks washed in the wash-tubs?—A. No, sir; there is an iron sink for that use.

Q. Is it used for that purpose?—A. It is used for that purpose.

By Mr. EATON:

Q. As you do not examine but once a week, you cannot speak absolutely of your own knowledge in regard to that matter?—A. I guarded that by saying that when I go there I find such things have been done.

By Mr. SARGENT:

Q. You have some idiotic patients, and other persons perhaps of not entirely sound mental condition. Are such persons very cleanly about water-closets and bath-rooms?—A. They require most careful watching. They are filthy from the very nature of their infirmities, and it requires that they shall be carefully watched in that respect. Some of them even would soil themselves if they were not watched in the beds. That, of course, occurs among sick people.

Q. An accident of that kind occurring your general rules are designed to prevent if possible?—A. Yes, sir.

Q. But it sometimes happens?—A. We have rubber clothes to place under the bed whenever we suspect that anything of that kind is going to take place, so as to protect the bed and protect the patient.

Q. You use all the precautions that you can to prevent defilement of the beds, the water closets, or bath-rooms?—A. Yes, sir; all the precautions that can be used.

Q. It is alleged against you that "the furniture, fixtures, and utensils of the wards are uncomfortable, dilapidated, mean, and unsuited to the service." Has Congress made any appropriation to refurnish the hospital?—A. Not a dollar.

Q. What furniture have you, and what is its condition?—A. We have the ordinary iron bedstead of the Army. We have straw sacks and hair matresses, and ordinary sheets and blankets and coverlids—all of good quality. Of course the iron bedsteads are as good as they ever were. We also have chairs and benches and tables in the wards. We have a table for every two beds.

Q. Where did this furniture originally come from? Do you know of your own knowledge?—A. I do not know; I found it there.

Q. You use such furniture as the government furnished you at the time you went there, and no appropriations have been made by Congress for any other?—A. I use just the same as I found there, and I never had any means to buy new. I have replaced chairs frequently when they got worn out, from the miscellaneous fund. Then, as to matresses, I buy ticking and have the hair steamed whenever the matresses get soiled. Sometimes we have to throw away matresses when they get bloody and soiled from operations. Then we are obliged to have them condemned. The ticking and the hair I have put into the steam-box and had them steamed and reworked up into new matresses. We make our own matresses in that way.

Q. You do what you can with such furniture and material as the Government furnishes you?—A. Yes, sir; we make the best of it.

Q. Is it ordinarily comfortable and adapted to the use?—A. It is ordinarily comfortable and adapted to that class of hospital.

Q. Are "the beds and bedding and the wainscoting of the walls infested with vermin"?—A. Occasionally water-bugs get into the wainscoting, and occasionally there will be vermin brought in by patients. The patients come from the lowest grades of society, and a great many of them are in a very filthy condition when they come in; they bring in vermin. Our rule is, and I think it is very strictly carried out, to take the patient, under such circumstances, and cut his hair off close to the scalp, in order to remove all the vermin from the head, and put on ointment to keep them from returning or to kill the nits, and then to have the patient thoroughly washed and put on the hospital clothing; and his own clothing, if filthy and bad, not worth washing, is burned up; if it is worth washing, it is sent to the wash-house, put under steam, and thoroughly cleansed.

Q. Do you use efforts to keep down vermin in the hospital?—A. We use the exterminator very frequently for the purpose of destroying these water-bugs or roaches, as they are sometimes called, and keep them down reasonably. I do not know what better term to use than that. They are pretty troublesome.

Q. Does any other vermin than the water-bug infest the hospital to any degree?—A. No, sir.

Q. This water-bug or roach is what is found in the private houses of this city?—A. Yes, sir.

Q. You use the same means they do in private houses to get rid of them?—A. Just the same as I use in my own house.

Q. Do you have any consumptive or asthmatic patients?—A. Yes, sir.

Q. Where are they put in the hospital?—A. They are in the general wards, care being taken not to have too many of them in connection with each other, so as to injure the moral condition of each other.

Q. What effect does their being in the wards have upon other patients?—A. No serious effect.

Q. Does their coughing deprive them of sleep or disturb their rest at night?—A. Sometimes it might, as would be natural.

Q. Is there any remedy for that with the materials at your hand?—A. The remedy is that when a patient has a bad cough we try to allay it with medicines, and do so as far forth as the medicines are adapted to the purpose.

Q. Is it possible for you to isolate them from the others?—A. No, sir.

Q. Why not? Why can you not assign them to private rooms?—A. The expense of doing so would be greater than it seems to me is contemplated by the appropriation. Nurses would have to be supplied for them, and it would require too large a number of nurses.

Q. Have you not the means to do it?—A. We have not the means to do it.

Q. Are there many of this class of consumptives and asthmatic persons?—A. There are not a great many asthmatics, but the number of consumptives is quite large. I would say here that among the consumptive patients there is only now and then a case that is at all annoying. As a general rule the consumptive patients sleep quietly in certain stages of the disease; but, of course, they cough more or less.

Q. A statement has been made that you allow private persons to keep cows on the hospital premises at government expense. What is the truth in regard to that?—A. It is not true. There has no cow ever been kept on the hospital premises at government expense. The assistant surgeon has kept a cow in the lower yard, and fed it himself. It has been there for the convenience of keeping it. That is all. He has had the opportunity to keep it there.

Q. Merely using the inclosure?—A. Using the inclosure; that is to say, there is a good deal of waste land where this cow runs, and she goes under the shed at nights, but gets nothing from the government at all.

Q. Is there more than one?—A. No, sir. Dr. Purvis will answer for himself as to that. He had a cow there a little while, but it was for a short time and under the same circumstances.

Q. No one of them has been of any charge to the government in any way?—A. No, sir. I asked the hostler and those who had charge of the feed, and they told me the parties furnished their own feed. There was no feed furnished by the government.

Q. How do you get milk for the hospital?—A. I purchase it from parties who bring it there, at a specific price for each month.

Q. What do you pay per gallon for milk?—A. At the present time we pay 30 cents. I have paid as high as 38 cents, and I think as high as 40 cents, since I have been there.

Q. And how low?—A. In January, 1877, I paid 40 cents; that was a year ago. I think when I went there I found the price was 50 cents,

and I continued it for a while. I have been gradually reducing it until it is now down to 30 cents. I get a good quality. I test it by the taste and also by the lactometer.

Q. The milk of about how many cows do you use for the whole hospital, do you think?—A. I am using now ten gallons a day. I have used as high as thirteen gallons a day, and as low, perhaps, as seven, depending upon the character of the diseases of the patients. Sometimes we have a class of patients who require more milk, and the way that is done is that the physicians order the amount of milk in any ward which they want the patients to have, and if it falls a little short for two or three days I order an increase in the supply of milk, and if I find the milk is a little more than I want, it is diminished. It varies from week to week.

Q. Is that a low price for milk that you are now paying?—A. It is, I should say, about a fair price for a good article.

Q. It is alleged that you "permit the Howard University and the Howard mansion to be supplied with water at government expense." Is the Howard mansion supplied with water?—A. I will show you with regard to that. The lease of the hospital property from the Howard University has a clause in it which makes it obligatory upon us to pump water one hour a day to the main building. What buildings receive it from that I do not know. There is a large tank in the main building of the Howard University, and there is a clause in the lease which requires that we should pump it there one hour a day with the engine, and that has been done.

By Mr. EATON:

Q. As part of the rent?—A. Yes, sir; it is part of the rent. It will be understood, of course, that the university own the engines, and we rent them and furnish the fuel.

By Mr. SARGENT:

Q. The stipulation in the lease is—

"4th. To put the engine in said hospital in good repair and direct the use of the same one hour per day (Sundays excepted) for pumping water to the main building of the said Howard University."

That is a contract in the lease between the university and the government, executed on the part of the government by "G. S. Palmer, surgeon in chief Freedmen's Hospital, for Interior Department of the United States." This is the lease which is still operating, is it? Has it been varied in any way?—A. It has never been varied until the present day. The present fiscal year the bill making the appropriation required that there should be only $2,000 paid for rent, instead of $4,000.

Q. Congress appropriated but $2,000?—A. Yes, sir; that is all.

Q. Otherwise the lease remains as originally made?—A. Yes, sir.

Q. The Freedmen's Hospital is the tenant of the Howard University?—A. Yes, sir.

Q. And under this lease, which is dated in 1875, this pumping is done?—A. Yes, sir.

Q. You pump one hour a day into that tank?—A. Yes, sir.

Q. And they use the water as they see fit?—A. Yes, sir.

Q. You never pump more than an hour a day?—A. No, sir. Sometimes when the pump is not in good order the engineer makes up by pumping a few minutes over, so as to do what is required to be done in the hour when the pump is in good condition.

Q. Do you know what the cost per day is of that pumping?—A. The cost per day is estimated from 100 to 200 pounds of coal, and the coal is

worth from 25 to 30 cents a hundred. This present year it is worth about 25 cents a hundred, and in former years it has been about 30 cents. It is cheaper this year.

Q. Then it costs about 40 or 60 cents a day?—A. Yes, sir.

By Mr. ALLISON:

Q. That is, it costs that much to comply with this lease?—A. Yes, sir. I think I have put the cost pretty large. In regard to that, it takes a certain amount of coal and wood to get up the steam which is necessary for the hospital purposes, and also it takes another amount of coal to do the work necessary for the hospital. When the steam is up, and it becomes time to use the pump for the university, it does not require over 100 pounds of coal in a day to run it through that hour that the steam is up. We are also compelled to pay our engineer just the same. The pump belongs to them, and it costs the amount of coal which is consumed in that hour, after the steam is up.

By Mr. EATON:

Q. You think it would not be over a quarter of a dollar a day?—A. I calculate about 20 cents a day.

By Mr. ALLISON:

Q. It is necessary to have this engine in operation every day?—A. Every day for hospital purposes.

Q. How many hours a day is it used for hospital purposes?—A. The engineer reports about nine, but it is not used all the time for that. He pumps his tank full; he washes, and saws wood, and cooks. There is some steam used in cooking. We keep up a gentle steam perhaps from seven to nine hours, low-pressure steam.

By Mr. SARGENT:

Q. It is alleged that you have abrogated the custom of employing a night nurse for each ward, and compel one man during the night to take charge of two wards containing at least sixty patients, and also to attend to four fires in cold weather, which it is alleged are "onerous duties and cannot properly be discharged by a single individual." Please state the facts in regard to that.—A. The fact in regard to that is that I kept the same nurses during the duty in those two wards that I found there, and therefore I did not abrogate the custom. The nurse is assisted always by convalescent patients, which is the custom in free hospitals like that, and they do assist him. Whenever any emergency arises the nurse is assisted by convalescent patients, and if he ever complains and wants assistance he can get it. Dr. Purvis has charge of those wards and he can give you the details in that respect.

Q. Are the patients under that system sufficiently taken care of day and night?—A. They are sufficiently taken care of day and night.

Q. Do you keep a light in the wards at night?—A. We keep a small taper-light burning.

Q. And is the nurse in the ward awake at night looking after the comforts and necessities of the patients?—A. Always.

Q. Can any person in distress call out for help without getting it under this system?—A. Never.

Q. What is your custom, where a person dies in the hospital, about removing the body to the dead-house? How soon after he dies is the corpse removed?—A. As soon as convenient after death takes place. The order is to put a screen around a person who is apparently dying or going to die soon, and after the person dies the body is dressed on the

bed where he dies, and then is taken by two men, on a stretcher, to the dead-house.

Q. Is that done decently and in order?—A. Done decently and in order. The instructions are always to do so.

Q. Do you find that the appropriation of $40,000 this year and $45,000 last year is necessarily expended in the management and care of the hospital?—A. Yes, sir, it is required; and I have to be careful about recommending patients to the Secretary, in order not to get in too many so as to overrun the different items of appropriation.

Q. Is the hospital sustained solely by Congressional appropriations?—A. Entirely.

By Mr. ALLISON:

Q. The patients who go there do not pay?—A. They pay nothing. One case, I will remark, has occurred since the former examination. A man came in; and after he had been there I found he was able to pay. I allowed him to pay ten dollars, which is ready to be turned into the Interior Department when the proper time comes.

Q. Is that the only case?—A. The only case where any man has ever paid. The man came with a cancer on his lip. I think he is employed about the Capitol now. We removed the cancer and kept him there about two weeks and I told him he might pay. He seemed able to pay. That was the only case. Then, with regard to certain other cases, I would say that while the hospital was under the care of the Secretary of War persons from the District were admitted to the hospital on the condition of paying sixty cents a day, and the District poor were at one time all quartered there, or at least a large number of them. That accumulated quite a little fund, which fund has laid to the credit of the hospital ever since as a hospital fund.

Q. Where?—A. In the Interior Department.

Q. How is it used?—A. I draw upon it occasionally whenever there is any emergency and the regular fund does not seem to be sufficient to meet the current expenses. I have drawn on it about three times, I think; once for coal for the whole year, and last year for certain articles of clothing, and this year for the payment of the additional surgeon not provided for in the appropriation.

By Mr. SARGENT:

Q. How many surgeons are provided for in the appropriation?—A. Two.

By Mr. ALLISON:

Q. What is the amount of this fund?—A. I do not know officially; but I have a private memorandum of it, and I think it is about four or five thousand dollars.

Q. You say you draw upon it?—A. Yes sir.

Q. That is, of course, a draft subject to the approval of the Secretary of the Interior?—A. Yes, sir I draw upon the Secretary of the Interior just the same as I draw the other, only I mark it "Hospital fund," and it is paid just the same.

Q. Is it paid as a matter of course, or is it paid if the Secretary of the Interior approves your views about it?—A. It must be on the approval of my views, of course. I know nothing about it further than that. I never have anything to do with a voucher after I approve it. The fund was transferred by the Surgeon-General to the Interior Department. It accumulated, most of it, before four or five years ago; but since I have been there there have been but few patients admitted

from the city. Whenever those patients were admitted by order of the Commissioners, I would make out at the end of the month a list of their names and send it down, and the time they were there, and they would give me a warrant for the amount. That warrant I would turn into the Interior Department. I do not handle the money at all myself. Mr. Butler has also sent persons there—I found that custom existing—persons here waiting who belonged to the National Soldiers' Home. They would be here waiting for a day or two, sometimes a week. About once a quarter I would send a bill for the amount the board of those patients came to. Finally we got it down to 40 cents, and those bills are paid by a draft, which I turn over to the Secretary of the Interior always, and that goes to make up this hospital fund.

By Mr. SARGENT:

Q. That is what you call the reserved hospital fund?—A. Dr. Purvis was in the hospital before I was, and knows more about what took place early than I do.

Q. Have any lunatics or idiots been admitted since you went there?—A. No, sir.

Q. Those who are there you found there?—A. Yes, sir.

Q. What is the treatment of those? Are they treated as patients in charge of nurses?—A. Yes, sir; they are treated as patients in charge of nurses and watched carefully.

Q. Is there any violence necessary toward them or is it used?—A. No, sir; no violence is necessary. Sometimes they are obliged to be restrained on account of tearing their clothes. They have sometimes to be held or, in a few instances, their hands have been tied for a while during the day-time.

Q. Do they have the same food as others?—A. The same food. It is carried to them on trays; served to them the same, excepting that they have tin ware instead of delf, because they would break it.

Q. Have you any power to discharge such persons without the order of the Secretary of the Interior or his approval?—A. I have not.

Q. Is there any institution to which they can be sent?—A. Not that I know of.

Q. You have some lunatics there, persons of unsound mind, have you not?—A. Yes, sir.

Q. Why can they not be sent to the Government Insane Asylum?—A. They were persons whose insanity occurred before they came into the District, and there is a provision in the admission of persons into the insane asylum that requires persons to make oath that their disease came upon them while they were residents of the District, and for that reason it is difficult to get them into the insane asylum. One, before I came, was sent there and they sent her back.

Q. What connection is there between the hospital and Howard University, so far as the employment of students is concerned? Please explain that matter.—A. The medical department of the Howard University has its rooms in the same building with the offices of the hospital. Those rooms are reserved in the lease. But aside from that they are distinct institutions. They are distinct institutions any way, but they have their rooms in the same building with the hospital offices. It is the custom to appoint medical students and allow them to stay in the hospital—one, or two, or three, as the case may be—and assign them to certain duties in the hospital, and allow them to live there as compensation for those duties that they do.

Q. Was there a chaplain of the hospital when you went there?—A.

There was a chaplain employed in the hospital when I went there who had a salary of $100 a month, and a musician at a salary of $8 a month.

Q. With board also?—A. No, sir, without board; that is, they had a room and quarters there, fire and lights. I found that was an expense which did not seem to be needed. The people did not want that kind of service, for they are religiously inclined always, and there are plenty of volunteer preachers, both from inside and outside, who would come there and do service. Besides that, in order to secure the attendance of some one all the time, in cases of christening or of death, I have appointed two theological students to come there and do those duties for their board simply.

By Mr. ALLISON:

Q. Without pay?—A. Without pay, except their board.

By Mr. SARGENT:

Q. What is the cost of their board?—A. At first I paid them $25 per month instead of $100, but finally I found that they would do it for nothing but their board simply. Their board can not cost over $6 a month.

Q. So that by that arrangement you save $94 to the government on the score of chaplains, or more, per month?—A. Yes, sir; $102 a month.

Q. Are there any other employés of the hospital who are medical students and who receive their board?—A. At different times I have assigned to duty as assistants in the wards, in the dispensary, and in the carpenter-shop, certain medical students who perform those duties, and gave them their board for the duties they performed.

Q. Were those services paid for before your time?—A. They were in part paid for before my time. Medical students have been assigned to duties in the wards as doing expert nursing from the beginning of the hospital, I think; certainly seven or eight years.

Q. That custom you find for the benefit of the institution?—A. Yes, sir; for the benefit of the patients.

Q. Are these things done for the benefit of the hospital or for the benefit of the school?—A. They are done for the benefit of the patients.

Q. And you find they do have that result?—A. They do have that result. The patients are better cared for.

Q. Can you find any cheaper method of having the nurses, the carpenter, &c., than working merely for their board?—A. No, sir; it is a saving to the government.

Q. Does the custom exist in other hospitals?—A. I think it does; I know it does.

Q. Would it cost the government more money to do it in the other way?—A. Yes, sir.

Dr. CHARLES B. PURVIS sworn and examined.

By Mr. SARGENT:

Question. Are you an officer of the Freedmen's Hospital?—Answer. Yes, sir.

Q. How long have you been connected with it?—A. Nearly thirteen years. It will be thirteen years this coming June.

Q. In what capacity?—A. I have been ward physician; or house physician now they term me. Originally I was one of the assisting physicians. I am now ward physician.

Q. Have you been acquainted with the condition of the hospital during all that time?—A. Yes, sir.

Q. Have you been there all the time—every day?—A. Every day in all that time.

Q. Is the general conduct of the hospital any different during the last three months from what it was the two years previous to that?—A. No, sir.

Q. Has there been any particular difference during the last dozen years? If so, state what those differences are.—A. When I originally came to the hospital it was not called "Freedmen's Hospital"; it was called "Contraband Camp." It was then confined chiefly to the admission of contrabands, as they were then called. The diet for them was very different from what it is now. The government used to issue very rough diet. As a sample illustration, the coffee used to be rye coffee; but after it was transferred to the Freedmen's Bureau, then it was under the control of the medical Director of the District, Director Abbott, now dead. After it came under the control of the Freedmen's Bureau the ration was gradually changed. Even then it was a rather rough ration. I do not think it has been very much changed, however, in the last eight or ten years. It has been pretty much about the same, I think, as now.

Q. How are the provisions at the hospital at the present time?—A. They are excellent. They have always been so for the last eight years.

Q. Are they well cooked?—A. Yes, sir; one of my duties is to examine the dinner, which I do every day, seldom missing a day. As a rule, I do it every day. I examine the food, all of it, and it is all well cooked; and if I find anything that does not meet my approval, I call the attention of the steward to it immediately.

Q. Are the same cooks there now that there have been heretofore?—A. Yes, sir; and one additional cook. Dr. Palmer employed an additional cook to devote herself to the cooking of the extra diet.

Q. What is the food that is given out? We have had a description of the Saturday dinner. Give us a description of some other day—any day.—A. The table varies a little. I do not know that I can recall it now. We have on Fridays a fish dinner. We observe the custom that is observed here among families. We have mackerel; that is for the mess-room. There is a difference between the mess-room diet and the wards. Those in the wards are presumed to be sick; those in the mess-room are presumed to be either convalescent or old people. We have on Fridays a fish dinner. For dinner we have mackerel and potatoes; I think soups; and we have bread pudding or rice pudding for them.

Q. Are the mackerel good?—A. Excellent mackerel.

Q. Do you stint them in the amount of potatoes they shall have?—A. No, sir. Of course, we issue so many pounds to so many patients. I think for the mess-room, seventy pounds of potatoes to one hundred persons. We weigh everything we issue. For breakfast we have codfish cooked as well. We have in addition to that corn bread. A great many prefer corn bread. We have corn bread in addition to the baker's bread. The diet that goes to the sick in the wards varies according to the judgment of the physician attending the ward. A great many persons in my wards (and I know it is the same in all the other wards) get egg custards, corn-starch, beef-tea, and all kinds of preserves and fruits. We have peaches and prunes and baked apples occasionally; stewed apples, oatmeal gruel, sometimes the ordinary Indian mush. Then we give steaks to a great many persons; it depends entirely on the person. Some I confine entirely to a milk diet. They have their tea and coffee—coffee for breakfast and tea for supper; some few persons get tea for dinner. That is a special order, however.

Q. Is it any part of your duty to look after the bath-rooms and water-closets?—A. Yes, sir; I inspect them every morning. All my wards are scrubbed every Wednesday and every Saturday. On my beds the sheeting—the linen, as we call it—is changed every Monday. The underwear of the patients is changed every Friday. The patients are washed every Friday; we wash them; that we insist upon. It almost creates a rebellion, but it is done. We do not let a man wash himself; our nurses wash them. We do not wash them in the bath-rooms, however, because they are out from the main ward, and are cold. We have tubs, with screens around the patients, and wash them right alongside the stove. My practice is, the moment a new patient comes in to have him washed immediately, unless it is a person suffering with pneumonia or something that washing would not agree with. He is in only a few minutes when he is washed.

Q. Are the bath-rooms and water-closets kept in as good order as possible?—A. My bath-rooms and water-closets are cleaned every morning, and my nurses have cleaned them as often as two or three times a day. We have some few patients who soil the wards, who cannot retain their water, and we scrub the floor around their beds every day and sometimes oftener. I may say we often change our bed-clothing, sometimes three or four times a day. It depends upon whether a man soils his bed or not.

Q. Is the hospital infected with vermin?—A. No, sir. These water-bugs are vermin, to be sure, but they are harmless creatures. But as to other vermin, such as lice, we have never any. Now and then a patient comes in with some bugs on him, but they are destroyed almost immediately. I do not think they are ever carried from one patient to another. In fact I know it.

Q. Are persons with contagious and loathsome disorders mixed up with other patients?—A. No, sir; we never have any contagious persons admitted to the hospital; but we have men suffering from syphilis, but that is not communicative from one patient to another. They are kept in the wards with the others, scattered about; but that is not an infectious disease from one man to another. Of course, each man has his separate bed, and in such cases they have their separate basins and separate syringes and separate sponges and such things, so that there is no communicating disease from one to another. It never has happened.

Q. Could you not use private rooms in the hospital to take care of those persons and give them separate attendance?—A. That class of patients would not need it any way, and we cannot do it, because it would require more nurses than we can afford to employ. In my ward, however, there is a room attached to the ward where in very bad cases, when somebody was very annoying, we have placed them in that little room and taken convalescent patients to nurse them. That is quite a common thing to do; but, as for a separate room for each one of them, it would be an impossibility. It would require twenty more nurses. All our confinement cases are in private rooms.

Q. Are your consumptive or asthmatic patients where they annoy others?—A. No, sir; they are in the same wards with others; they are scattered about. When a man gets very bad we remove him to the little rooms at the end of the wards. We have not had any asthmatic cases but one. We now and then have one. It is not a very common complaint.

Q. Do the generality of the occupants of the institution seem to be

satisfied with its management?—A. Yes, sir; I think ninety out of a hundred. That is just about the proportion.

Q. Do they make complaints to the physicians—a great proportion of them?—A. I think no patients complained to me about anything prior to the investigation of last fall. Then I found that a great many, who seemed to be put up to it, asked me for clothing, and complained because I would not grant clothing. Some of them would become very impudent, and say, "Congress has appropriated $3,500 for clothing, and I have a right to have it." There was an erroneous impression set abroad by those who got up the investigation that every man who once came in there had a right to be clothed up at the government expense; but that appropriation, as we understood it, meant to replace sheets, blanketing, &c., and to buy clothing for the permanent patients—the freedmen who were left as wards of the government. I do issue clothing to a man where he is absolutely needy, but I do not intend to gratify their wishes; I only mean to cover nakedness decently. I could spend the whole appropriation in clothing if I complied with their wishes.

Q. You find this $3,500 not more than sufficient to carry out the objects of the law as you understood them?—A. Hardly that. We replace bed-clothing.

Q. You keep the patients as decently clothed as you can with the means in your power?—A. Yes, sir. In no other hospitals do they ever clothe patients brought in to be cured. It is not contemplated in any hospital. We aid them. We find a person without shoes or clothes, we give them to him. Our books will show it. Each person's name is recorded and the clothing issued to persons is put down.

Q. Do you know anything about the keeping of cows on the premises there?—A. Yes, sir. A year ago last summer I had a cow which I took for a debt from a man who owed me money. I kept it for a few months. I do not remember now just how many months, but until she became fresh. She had run dry when I got her. Then I sold her. Not a particle of food was ever eaten by the cow at government expense. I bought my feed, some of it in the market and the rest of it around at the feed-stores in the neighborhood. I have the receipts for those purchases. My colleague, Dr. Glennan, keeps his cow, and I have often bought feed for him. In fact we used to buy feed together. Not a morsel of feed did the cows eat at the government expense. They are kept really in a yard that does not belong to the hospital; it belongs to private parties, but they do not use it.

Q. What is the custom with reference to night-nurses to each ward, as compared with those formerly employed?—A. We have the same number of nurses in the ward that I have control of that we ever had. I have one night-nurse who takes charge of my ward and the ward below, and that has been the custom for, I should say, the last five or six years. But when we have very bad cases we detail some of the convalescent patients to assist him. He occasionally has complained about that; but I never thought he was very hard-worked, because there is not a morning that he does not get up and dress himself and go out. When I go into the hospital he is gone, and is away all day. I never found it necessary to employ an additional nurse. I do not think it is yet.

Q. Who was that that complained; the nurse?—A. He has occasionally complained that he wanted more help; but I found that he went out every morning to visit, showing that he was not overworked.

Q. The same number of nurses is kept there that was kept there before?—A. Yes, sir.

By Mr. ALLISON:

Q. What is this man's name?—A. His name is William Brown. He is a very good nurse. He has been there nine years.

By Mr. SARGENT:

Q. He has complained that he had been too much worked?—A. Sometimes, not very lately, a year or so ago. Sometimes the convalescent patient does not respond as quickly as he would like, but no one has ever suffered for want of night nursing.

Q. What is his compensation?—A. I think he gets $12 or $15 a month. He has one defective hand. He does not attend the fires. He may put coal on them. He has no cleaning of the wards. All he has to do is to watch patients.

Q. How many nurses are there in all the wards? Is there a nurse to each ward?—A. Yes. We have the day nurses, who do all the cleaning, two for each ward. We have five nurses for these two wards that I speak of. I do not know the exact number altogether. In the female wards we have the same number.

Q. Are those day or night nurses?—A. We have two day nurses to each sick ward and one night nurse for two wards. We have four sick wards with two day nurses, and then we have one night nurse.

Q. To each ward?—A. No, sir; in the two wards. We have one night nurse to two wards. In the female wards we have really two night nurses to the sick ward, one on duty all the time, and then she has an assistant whom she calls upon in case of emergency.

Q. Now let me understand that distinctly. It is alleged that a night nurse was formerly employed for each ward, and that now one man is compelled, through the night, to take charge of two wards containing at least sixty patients.—A. There has been no change in the wards. The wards are the same now as under Dr. Reyburn.

Q. But there is one man to take charge of two wards?—A. During the night; but he has assistance from patients detailed by the doctor in charge.

Q. Are these night nurses and their assistants on hand to attend to any one who is suffering at night?—A. Always.

Q. Is there any danger of a person dying in darkness and gloom without care?—A. We keep gas-light all night in all the wards. We have several burners in the early part of the evening, so that those who read can do so. At 8 o'clock we turn the gas down, but leave one or two burners burning the entire night.

Q. If a person dies during the night is he hustled out of the ward to the dead-house as soon as the vital spark is extinguished?—A. No. A handkerchief is generally tied around his jaws and his clothes are put on him and he is carried out by the night nurse and the watchman. We do not allow them to lie in the ward longer than we can help, on account of the other patients.

Q. Do you know anything about the purchases, whether they are made by contract?—A. I know something about them. The meat is by contract. The other purchases are all from wholesale merchants in the city.

Q. What is the mode of advertising; through the newspapers, or by personal notice to responsible dealers?—A. The doctors will meet. I have carried notices around myself. Several times we took notices around to several butchers to let them put in their bids. That is the custom observed in the Soldiers' Home and the Reform School and by the officers of the Army. We observe the same custom. We do not

advertise. We go around among quite a number of butchers, and they all bring in their bids.

Q. Do you do the same thing in regard to feed, &c.?—A. No, sir; we buy our flour and groceries from wholesale merchants.

Q. By competition among them?—A. We buy from more than one. There is some competition. They always mark down the lowest wholesale prices. We buy at wholesale prices.

Q. Your judgment and knowledge of the institution is that they get articles at low market-prices?—A. I think honestly we get the things lower than if bids were put in, because we keep up the system of competition.

Q. Is it your observation and experience from years in the hospital, and especially of late years, that the articles bought are good?—A. Yes, sir; I have no hesitancy in saying that.

Q. Is there any motive or inducement to anybody to have poor articles?—A. None in the least.

Q. Do you handle any of the money yourself?—A. Not a farthing except a small sum.

Q. What is your pay?—A. Fourteen hundred dollars. It used to be $2,100 until last July.

Q. Do you receive any pay from the Howard University?—A. No, sir.

Q. You and Dr. Palmer, I believe, are both professors in that university?—A. Yes, sir. The government has nothing to do with that.

Q. You give that service there gratuitously?—A. Yes, sir; they used to pay us, but not now.

Q. In one of the papers laid before us, relating to a different subject, it is said that it is impossible for a doctor to do anything from humane motives or from a desire for the good of mankind, and that he must have some selfish motive. "The surgeons are not so interested and philanthropic as to professionally treat poor, friendless, uninfluential invalids without pecuniary reward." Do you give your services gratuitously to this school in teaching?—A. I was employed at a thousand dollars a year; but when the institution became embarrassed, I did not resign as some professors did, but I continued along lecturing for them. A resolution passed the board of trustees saying that we should be paid if the money could be raised by special endowment, but the philanthropist has not come along to endow us; and all these other professors who have joined us since do not get any pay. We turn over to them the little matriculation-fee, which amounts to less than $100 each.

Q. Neither you nor Doctor Palmer receive any portion of the matriculation fee?—A. We do not take it. That is optional with us, of course; but we do some charitable work. I have attended an orphan asylum eight or ten years for nothing.

Q. Prescribing for the poor and needy?—A. Yes, sir; it takes a great deal of my time. Then there is an asylum which we have attended for eight or ten years without receiving compensation.

Q. Is it uncommon for the profession to give their services to the poor sick and needy?—A. All doctors do that. The fact is, all the poor of this city are attended to gratuitously. There are no ward physicians here any more, and there is no other way to attend to them. They have abolished the ward physicians, and all the poor are attended by the physicians of the city without pay.

Q. Tell how the medicines are purchased for the hospital?—A. Doctor Palmer buys them from the wholesale dealers here. We make a great many of our medicines, and save money in that way. All our tinctures

we make. We could buy them, of course; but we buy the crude medicines to make them.

Q. I believe you have nothing to do with the expenditures of money?—A. Nothing whatever.

A. No responsibility in any way?—A. No.

Q. Is it your judgment, being disinterested in that matter, that the appropriation made by Congress is economically and usefully employed?—A. Yes, sir.

Q. Could that appropriation be reduced and the hospital be kept to this degree of usefulness with a decreased appropriation?—A. No, sir; I think the appropriation ought to be increased. It requires a great deal of care to meet the monthly expenses; and as it is itemized, if it was carried out strictly the usefulness of the hospital would have been destroyed. It only allows $1,800 for nurses and cooks, and I think the amount expended is about $4,500. We pay them out of the miscellaneous fund as laborers, &c.

Q. You say you have nothing to do with purchasing and making contracts or handling money?—A. Nothing whatever.

Q. You are one of the medical staff or managers of the institution?—A. Yes, sir.

Q. Dr. Palmer is the one who manages the financial business?—A. He is in control of the finances of the institution.

Q. Have you been raised "from limited means to affluence" by means of your connection with the institution?—A. No, sir; not there. I must confess that I adopted the rule when I first entered the Army as a contract-surgeon to husband all I could out of my salary, and I have done it and have accumulated something.

Q. You have not "fattened on the spoils" of the institution?—A. No, sir.

Q. Do you know whether Dr. Palmer has grown rich during the last two years since he has been there?—A. He has grown lean, I know, within the last few months. Pecuniarily I am pretty sure he has not grown rich. He has property, a house, I know that he built before he took possession of the hospital.

Q. Has he built no other since?—A. No, sir.

Q. Have the persons of unsound mind, idiots and blind persons, and the able-bodied persons who are there now, if there are any of that class, been there for some years together?—A. From eight to ten.

Q. Has there been any increase of that class?—A. Rather a decrease; one or two have died.

Q. Do able-bodied paupers come there to reside permanently?—A. No, sir. There have been some few kept there, but we only admit the sick.

Q. And they remain, sometimes, after they are cured?—A. There have been some kept there.

By Mr. ALLISON:

Q. What is the method of discharging patients from the hospital; what is the process? Who attends to that?—A. The doctor in care of the wards, as a rule. Sometimes he finds a patient well enough to go out; he gives him a day or two days' notice that he will discharge him. He takes down his card and marks him "discharged."

Q. What is the probable average duration of time patients are kept there?—A. I do not know that I can answer that, as many cases are consumptives who stay a good while. We have never made an average. We have the average number of days' treatment of each individual. I

am not prepared to answer your question. They stay, as a rule, a long while. There are a great many consumptive cases.

Q. Are all persons who apply admitted, or are a great many rejected? —A. Quite a number are rejected; we reject every day. All those who come with an order directly from the Secretary of the Interior we admit; we honor the order; but where a person comes to the hospital, if he is not very sick, we do not think of admitting him. If he is very sick we do not send him away, but we take him in and write a letter to the Secretary stating what is his ailment, and that, in our judgment, he should be admitted to this hospital; and he sends an order accordingly.

By Mr. SARGENT:

Q. Are the lunatics and idiots in charge of nurses?—A. Yes, sir.

Q. The same as other patients?—A. Yes, sir.

Q. Are they fed like other patients, from the same food?—A. Just the same; no difference is made.

Q. Is as much care taken of their clothing as of that of other patients?—A. They are destructive; they require more care than other patients.

Q. Do they tear their clothes?—A. They are very destructive in that way.

Q. How are their habits?—A. Dirty, filthy, as a rule.

Q. Can that be avoided in any way?—A. No, sir. We have one or two persons who are idiotic from convulsions; "fits," as it is called commonly. They destroy their clothing, and they soil themselves at times. The few insane persons we have are perfectly harmless, however.

Q. Why do you not send these lunatics to the Government Insane Asylum?—A. The authorities there will not receive them because they were not taken insane in the District.

Q. Have you ever attempted to send some of them there?—A. I did send one some four or five years ago. She was over there but a little while and they discharged her. We have her again under our control.

Q. Is there any institution in the District to receive the idiots?—A. No, sir; and none out of the District that I know of that would take these idiots.

Q. Do you know with regard to the employment of students of the university as employés of the hospital?—A. Yes, sir. It has been a custom in the poor-house hospital here to admit resident students. There has been a custom in this institution for eight or ten years to have students connected with it as resident students. We assign them to various duties, to go around the wards with the physicians to attend upon the sick. We used to have them write up cases, keep records. Formerly they used to assist in the commissary, but we do not have them doing that kind of work now. We confine their work now entirely to attending the sick.

Q. How many of them are there altogether now—I mean who are also connected with the Howard University?—A. We have two students who go around the wards, but they do not board in the institution. There are two theological students. Then there are two others who work there; one is a carpenter, and the other works in the dispensary. While he is a student he is employed there as a laborer. We have really but one student working his way for his board outside of the theological students.

Q. Including the theological students are there three?—A. Yes, sir.

Q. Three who receive their board for their services?—A. Yes, sir.

Q. As chaplains and carpenter?—A. That is all; two chaplains and

one carpenter. The other student is there as a laborer. He is employed, and he happens to be studying medicine at the same time.

Q. What are the duties of a chaplain—to give religious consolation to the dying, and preach, &c.?—A. They hold services on Sabbath morning and during the middle of the week. Then they go through the wards and visit the sick, talk to them, and write their letters for them; those who cannot write they write for, especially many old ladies.

Q. Are the services of these persons necessary?—A. Yes, sir. There has always been a chaplain connected with the institution.

Q. Do you know what the cost of the chaplain was before Dr. Palmer took charge?—A. The one employed just before Dr. Palmer came in there received $100 a month, quarters for himself and wife, and stabled his horse there. After that, Dr. Palmer employed a young man at $25 a month, and after that another one at $12. These present men do not get anything.

Q. Did those who received $25 and $12 also get their board?—A. Yes, sir.

Q. And these men simply get their board?—A. Yes, sir.

By Mr. ALLISON:

Q. Is the religious instruction as efficient now as before?—A. When we paid $100 a month we did not get very much religious service out of the chaplain—very seldom. Occasionally he would visit the wards, but then it required an order to send him there. That was one reason we got rid of him. Then, he was an Episcopalian, and most of the people in there are generally Methodists and Baptists and a few Catholics. I do not think there are any Episcopalians there; I do not think there is one. There are none to my knowledge. There are a number of Catholics, and their priest comes to see them quite frequently—every week in fact.

Dr. PATRICK GLENNAN sworn and examined.

By Mr. SARGENT:

Question. Are you connected with the Freedmen's Hospital?—Answer. I am.

Q. In what capacity?—A. I am a surgeon, in charge of the dispensary, at present.

Q. How long have you been connected with it?—A. Ever since 1865.

Q. In that capacity?—A. No, sir; for a short time I was in charge of the hospital, and afterwards I was executive officer for a long time.

Q. Do you have anything to do with the management of the finances of the institution?—A. No, sir.

Q. You have no responsibility in that particular, and no interest?—A. None at all. I write a great many orders for supplies. My duties are clerical in that respect, entirely, but I know all about it, however.

Q. In your observation of the purchases for the institution, both of the prices paid and the articles received, are the finances well and economically managed?—A. I think they are.

Q. Do they get good articles?—A. Yes; as good as most families get for their own use.

Q. Have you observed the meats that are brought into the institution; the hominy, the flour, and other articles?—A. Yes, sir; they are all good—good enough for any family, in fact.

Q. How is the cooking?—A. I think the cooking is good. It is very rare that anything is not properly cooked.

Q. How long have the present cooks been there?—A. Some of them have been there at least eight or ten years. There was one cook employed last summer as an extra cook; she has been there only about six months, but the rest have been there for years.

Q. Is this extra cook head cook or assistant?—A. She has special duties—cooking special diet.

Q. Under the prescription of the doctors?—A. Yes, sir.

Q. Is the cooking now, and has it been for the last two months, of the same character that it has been for the last three or four years?—A. Just the same. I do not know of any difference. The same cooks have been employed, and there has been supervision over them. They are looked after pretty sharply, in fact, and always have been.

Q. How is it about the cleanliness of the hospital; what precautions are taken to keep cleanliness?—A. The wards are generally cleaned about two or three times a week, and very frequently parts of the wards are cleaned every day. The bath-rooms are cleaned every morning regularly, and so are the water-closets; and afterwards, if they become soiled during the day, they are cleaned up. Sometimes it occurs every day in some part of the hospital. That is a matter constantly looked after by those in charge of the wards.

Q. Is the hospital infested with vermin?—A. It is not. There are a few water-bugs, but even they are not very numerous. In regard to lice, occasionally some patient will come in lousy, and occasionally some old man will be allowed to stay with his people two or three nights, and he will come back sometimes with vermin; but the nurses are on the lookout for that all the time, and it is very rarely that they get any. If they are discovered on the beds or blankets the articles are turned in immediately and subjected to the steaming process, which prevents any spread. I think, considering the class of people they have there, there is very little of that trouble.

Q. Does Dr. Palmer give much of his time to the institution?—A. Yes, sir; he is there every day, and sometimes at night. Of course when there is any case in the wards requiring attention at night, he is there at night, as we all are sometimes.

Q. Does he seem to be kind to the patients—careful for their health?—A. Very much so, indeed.

Q. Does he seem to personally look after their comfort?—A. Yes, sir.

Q. What seems to be the condition of contentment on the part of the inmates as a rule?—A. They are generally contented. It is only a few parties who are not, and they are all in the same ward as a general thing.

Q. Are those persons white or colored who are discontented?—A. Both; some white and some colored.

Q. So far as you know, have any injuries been inflicted on those persons who complain?—A. No, sir; not at all.

Q. Do they receive the same food as others and the same care?—A. The same food; in fact they are rather better off on account of their importunities. They get just as much care and are treated kindly, I know.

Q. Were they treated kindly before the complaints were made?—A. They were. I believe everything was done for them that was possible.

Q. Can you name some of those who complain?—A. Felton, Johnson, and Potter, and two or three parties who are now away from the hospital—Clagett, Dorsey, and Stewart. I think there were not over a dozen of them altogether. Two-thirds of them are in the ward where Felton and Johnson are. I do not think over a dozen in the whole.

Q. Is Felton a white man?—A. Yes, sir.

Q. What is his disease?—A. Paralysis of the lower extremities. He is in Dr. Purvis's ward. He was in my ward at first, and was sent out of it for reasons.

By Mr. ALLISON:

Q. How long has Felton been in the hospital?—A. He came in last April, I think.

Q. Is he resident of the District?—A. I think not. He came into the District a year or two ago and brought up in Providence Hospital, as I understand, but I cannot say about his residence.

By Mr. SARGENT:

Q. What compensation do you receive at the hospital?—A. One hundred dollars a month.

Q. How much did you formerly receive?—A. I received $2,100 formerly; that was for a few years.

Q. Under the present management the expenses are cut down to the lowest notch?—A. They are.

Q. Instead of expending the money in high salaries the money is spent in furnishing clothing, food, and proper attendance?—A. That is precisely the case. It is very carefully done.

SATURDAY, *February* 9, 1878.

The subcommittee met at the Freedmen's Hospital at 10 o'clock a. m.

Dr. G. S. PALMER recalled.

By Mr. SARGENT:

Question. Are there any dissections carried on in the hospital?—Answer. No, sir; none in the hospital at all.

Q. Are any ever carried on in sight of the patients?—A. Never; that has never been done.

Q. It has been published in the newspapers that that was the practice, and that it had been done. Is there any foundation for it?—A. No foundation for it at all.

Q. Is there no instance in which dissecting has been done in the presence of patients?—A. There is no instance in which dissecting has been done in the presence of anybody except those medical students who were properly present, and the room was properly guarded and protected. I do not think it could possibly have been done without my knowledge. I know nothing of it, and I do not believe there is any chance for anything of that kind ever to have occurred.

Q. Do you know of any witness who testified that that was the case? If so, give us his name.—A. I do not think of any witness that testified to that. One of the witnesses testified with regard to seeing some parts of what he supposed to be flesh that were in the attic. That was the engineer. He testified that he saw some flesh in the attic.

Q. The attic of what?—A. Of this building.

Q. Is that any part of the hospital premises?—A. No, sir; it is the attic which is over the whole. The upper two stories belong to the medical college; the lower two stories to the hospital.

Q. This was on the premises of the medical college?—A. Yes, sir.

Q. Do you know about the fact of that flesh being there?—A. I know

nothing of it at all, and never heard of it until the engineer testified to it. There was a complaint made that some things were being done improperly there—I cannot remember exactly what—but there was something that led me to order a lock and key to be put on the door, and the key was given to the engineer to take charge of—the scuttle going up into the attic, so that nobody could get up there.

By Mr. EATON:

Q. Why give the key to the engineer?—A. The engineer has to go there to work the water-tank.

Q. When was that?—A. That was one or two years ago.

By Mr. SARGENT:

Q. I am informed that it has also been alleged in the newspapers that bodies, after dissection, are crowded into sacks and buried on the hospital premises. How is that?—A. That is not true. A short time ago complaint was made to the police that there were bones or parts of bodies buried here, and a sensational letter was written stating that the thing needed investigation, and they notified the chief of police, I suppose. I found the coroner and health-officer and the lieutenant of police here one afternoon to investigate the matter. I told them to go on and investigate; if there was anything it was unknown to me. They went to the party who gave the information, who was Felton, and he called in other parties who knew where some bones had been buried, and they proceeded to take them up, and found that they were some bones which medical students had placed there for the purpose of maceration. The health-officer examined the premises and said there was nothing dangerous to health at all, or that was improper, and he had nothing to do with it. The coroner examined into it and said that he discovered no indication of anything wrong, and he made his report to that effect. He said the students should turn the bones over to me, and told me they had no control over them whatever, but if they belonged to the students, they had better take care of them.

Q. What bones were these?—A. They were some bones that probably came from the dissections of the year before. They had lain the best part of a year.

Q. How numerous were they?—A. They were small portions of the different bones of the system.

Q. How many pounds? Give us an idea of the amount.—A. There was part of a thorax and head in one place and part of a leg in another, as near as I can recollect; a part of an arm in another. I should say that would cover the whole thing. I cannot say definitely as to that.

By Mr. EATON:

Q. What were they placed there for?—A. Maceration; that is, for the little remaining flesh on them to decay, and then they wanted to take them up and preserve them.

Q. Is that customary?—A. Customary among students.

By Mr. SARGENT:

Q. You do not bury the dead on the premises?—A. Never.

Q. What is the form of burying?—A. The form of burying is to get a certificate when a person dies and send the certificate to the board of health, and the board of health gives a permit for him or her to be buried in Potter's Field. Then the body is buried in Potter's Field. That is the general rule; but the Catholics bury their own dead; and

sometimes friends come and get the patients' bodies and bury them as they choose.

Q. Have you a copy of the charges filed against you in the Interior Department?—A. I have.

Q. Please hand them to the committee.—A. These are the charges:

WASHINGTON, *August* 25, 1877.

SIR: I hereby charge Dr. Gideon S. Palmer, surgeon-in-chief of the Freedmen's Hospital, in the city of Washington, with dereliction of duty and official malfeasance; with culpable disregard for the safety, comfort, and welfare of the patients in that institution; with maladministration of its pecuniary affairs, whereby the public money appropriated for the maintenance and support of said hospital has been, to a large extent, perverted, wasted, embezzled, or abstracted; with wrongfully using or permitting others to use public property in his official custody for the benefit of private parties, and with being disqualified to hold the position and exercise the functions of surgeon-in-chief of said Freedmen's Hospital.

SPECIFICATIONS.

First. In that said Palmer provides the patients in said hospital revolting food, measured out to each in quantity insufficient to satisfy hunger. The provender is execrably cooked, and especially unfit for invalids, whose condition requires good, palatable, and nutritious food. Beeves' heads and legs, oftentimes putrid, chopped up and concocted into odious messes; pickled pork and beef, saturated in brine from time immemorial, till it becomes semi-petrified and rusty; ancient mackerel, corroded with salt and nauseating in smell; sour bread and musty hominy; a solitary potato in its jacket, about the size of a hen's egg, allotted each patient at dinner; and insipid slops, nominated coffee and tea, constitute, in substance, the regular diet of the institution; and the meals served in the mess-room do not actually cost more than seven cents per day for each patient. Superannuated, slovenly, and unskillful persons are employed as cooks, at four dollars per month for the services of each, and such culinary botches could not fail to spoil the best of viands if intrusted to them to prepare for the table; but with inferior provisions, such as said Palmer supplies, they produce detestable messes that are not fit for any human being to eat.

Second. In that, under said Palmer's management, the bath-room and water-closets attached to the male wards of said hospital are kept in an offensive condition. Slops are emptied therein, and filthy utensils used by the sick are washed in the bath-tub in which the patients of the respective wards bathe, whereby they are exposed to imminent danger of contracting terrible diseases, and malaria is liable to be generated by the foul odors and decomposing matter therein that poison the atmosphere.

Third. In that, under said Palmer's management, the furniture, fixtures, and utensils in the wards are dilapidated, uncomfortable, mean, and unsuited for service; that the bedsteads, beds, pillows, sheets, blankets, spreads, chairs, tables, and other articles were transferred to said hospital by the government or sanitary commission when the Army hospitals were abandoned at the close of the late war, and have been in constant service and received severe usage for more than ten years; that the beds, bedding, and wainscots of the walls are infested with multitudinous and repulsive vermin of various kinds, and no proper effort is made to destroy them; and that the entire furniture and equipments of any one ward would not sell for the sum of one hundred dollars.

Fourth. In that, under said Palmer's management, patients afflicted with contagious, infectious, and loathsome disorders are commingled promiscuously in the wards with the other patients, who are thus exposed to the dangers of contracting terrible maladies, whereas the patients so afflicted should be classified and congregated in private rooms, of which there is an abundance in said hospital, and thus be isolated from the other patients, who would be secured immunity from harm from that source.

Fifth. In that, through said Palmer's remissness, consumptive and asthmatic patients are quartered in the wards among the other patients, who are thus compelled to breathe an atmosphere contaminated with the exhalations from diseased lungs, and are deprived of their sleep and disturbed in their rest at night by incessant and painful coughing, hawking, and expectorating, which, in pulmonary complaints, are infinitely worse in the night-time than during the day, whereas such obnoxious patients could readily be isolated from the others by assigning them to private rooms, which, with a reckless disregard for the health and comfort of the patients, are permitted to be occupied by employés of the institution or by persons that are comparatively well.

Sixth. In that said Palmer has allowed private persons to keep three cows on the hospital premises at the government expense, while he purchased from outside parties all the milk required for the use of the institution, yet the same number of cows belonging to the hospital could have been kept at the same cost, and supplied the hospital with pure milk, whereby the government would have saved the large milk-bills that have been paid for that institution needlessly.

Seventh. Said Palmer permits the Howard University and the Howard mansion to be constantly supplied with water at the government expense; the tank on each of these buildings is daily filled with water pumped by the government engineer at said hospital, who runs the government engine for that purpose with government fuel at estimate cost of $5 per day, and the sum of $1,800 of public money is thus misused annually, to which extent the appropriation to said hospital is diminished. Such conversion of public property to private use is a grave offense that demands punishment of the offender and restitution to the government.

Eighth. Said Palmer has done grievous harm to the inmates of said hospital by abrogating the custom of employing a night-nurse for each ward, but compelling one man during the night to take charge of two wards, containing at least sixty patients, and also attend to four fires in cold weather, which onerous duties cannot be properly discharged by a single individual. Hence patients in severe cases suffer intensely from neglect and disturb the other patients by their cries for succor and relief, while the *dying are abandoned to their fate, and suffered to expire in darkness and gloom*, without care, solace, or sympathy, and are hustled out of the ward to the dead-house as soon as the vital spark is extinguished.

Ninth. In that, under said Palmer's management, goods, wares, and merchandise required for said hospital have not been purchased, as far as practicable, on contracts awarded to lowest responsible bidder after public advertisement, as is the custom with the War and Navy Departments, and in every well-regulated government institution, but have, to a great extent, been procured from retail dealers in small quantities from time to time, as the immediate exigency demanded, whereby articles of inferior quality were obtained at high prices, the public money was squandered, and the hospital failed to receive the full benefit of the appropriation granted it by Congress.

Tenth. The legitimate expenses of said hospital, as conducted under its present management, do not exceed twenty-five thousand dollars per annum, and all money beyond that sum drawn out of the Treasury on its account has been misused, squandered, embezzled, or purloined. Through such perversion or abstraction of appropriated funds the government is alleged to have been plundered and the hospital defrauded to the amount of one hundred and fifty thousand dollars during the past five years; while the members of the *medical staff, managers of the institution, have been raised from limited means to affluence, become the owners of valuable real estate*, and fare sumptuously every day at the expense of the poor and the sick, the maimed and the dying, for whom Congress made liberal provision, if the public bounty had been honestly and judiciously administered for the sole benefit and behoof of the beneficiaries and not for the individual profit and aggrandizement of the functionaries to whom the execution of the trust was confided.

Respectfully submitted.

ROBERT T. JOHNSON.

Hon. CARL SCHURZ,
Secretary of the Interior.

ADDITIONAL SPECIFICATIONS.

Eleventh. Under said Palmer's management, lunatics, idiots, blind persons, and able-bodied paupers are permanent inmates of said hospital, instead of being consigned to the institutions specially established for the reception of such unfortunates.

Said hospital is a sanitary institution, created solely for the accommodation, care, and treatment of invalids, and the presence of these intruders among the patients is detrimental, repugnant, and dangerous to them. These individuals, moreover, occupy much room in the wards, which ought to be appropriated to such persons as require medical or surgical treatment, many of whom are crowded out of said hospital by these objectionable inmates; the expense of supporting these creatures is a misuse of the money appropriated for the maintenance of said hospital, and the patients, to that extent, are deprived of their rights and property. The lunatics and idiots are not treated as patients in charge of nurses, but are consigned to the custody of keepers, who frequently beat them and reduce them to subjection by fear and violence. They are clothed in rags, are filthy in their habits, and subsist on refuse and slops. These obnoxious persons are alleged to be domiciled in said hospital for the purpose of augmenting the total number of inmates in order that the maintenance of said hospital may plausibly be represented as costing more than is actually expended for its support.

Twelfth. Since the commencement of the fiscal year on the 1st day of July, 1877, three surgeons have been officially connected with said hospital, notwithstanding the appropriation act makes provision for the employment of two surgeons only for the current year; if these three surgeons have received compensation for their services at said hospital since July 1, 1877, the payment to one of them was unauthorized and illegal, the public money, to that extent, was misused for that purpose, and the money appropriated to said hospital was squandered to the amount of such disbursement.

If, however, one of said surgeons continued his professional connection with said hospital and treated its patients without receiving any salary or compensation from the appropriation, it is palpable that he derives a profit out of the institution equivalent in value to his

services, inasmuch as these surgeons are not so disinterested and philanthropic as to professionally treat poor, friendless, uninfluential invalids without pecuniary reward. Either circumstance evinces official malfeasance, unscrupulous greed, and flagrant betrayal of a sacred trust in the management of said hospital and its executive officers.

ROBERT T. JOHNSON.

I hereby certify that this is a true copy of original charges and specifications presented by Mr. Johnson.

T. B. HOOD,
Chairman Committee of Investigation.

OCTOBER 9, 1877.

Q. Did you make any reply to the charges, any written answer?—A. I did. I submitted the following reply, and after being, as I understood, acquitted by the committee appointed by the Secretary, I sent a still further defense.

The following is the reply:

FREEDMEN'S HOSPITAL,
Washington, D. C., February 5, 1878.

To the Hon. Committee Investigating Charges against the Management of the Freedmen's Hospital:

GENTLEMEN: I took charge of this hospital as surgeon-in-chief March 20, 1875. I receipted for all the property in the hospital, and am personally responsible for every article within or on the premises. On taking charge I went to the Hon. Secretary of the Interior for instructions and advice, and received the following only: "You must do the best you can with the establishment, but be sure and never exceed your appropriation." I learned that the management of the hospital for the few previous years had been generally acceptable, and I adopted and continued the customs and practices, so far as they seemed to me to be right, as my guide of action, and corrected those which seemed to me to be wrong. I endeavored to put the hospital into a condition to do the most good to the largest number, and I have continued that principle of action ever since.

The history of this hospital shows that it was established by the Commissioner of the Freedmen's Bureau, and managed by him till July 1, 1872, when it passed into the care of the Secretary of War, and was under the direct management of the Surgeon-General till July 1, 1874, when it was transferred to the Department of the Interior. The hospital was first established for the support and medical and surgical treatment and care of about 250 or 300 sick, decrepit, aged, blind, idiotic, crazy, poor colored persons, "freed people," who had been collected together in this District by the Freedmen's Bureau and the General Government from the breaking up of numerous hospitals and contraband camps. A large number of these original patients are now in this hospital. Congress at one time evidently intended to admit no new patients, and guarded its appropriation with a clause providing that no new patients should be admitted.

The pressure, however, for the admission to the hospital of the sick and disabled poor was so great and their necessities so urgent that they were admitted, and after a while, by the efforts of philanthropists, the prohibitory clause was left out of the bill making the appropriation. Since this time sick and disabled persons, regardless of color, sex, or birth, who were destitute and *absolutely* unable to take care of themselves, have been admitted to the hospital on the order of the Surgeon-General or the Secretary of the Interior. The governor of the District also at one time sent all the sick paupers of the city and county here for treatment and support, by an arrangement made with the Surgeon-General, as I understand.

As to clothing, it has been held and the practice has been that the original patients only should receive clothing, except in cases of absolute necessity. Should all the requests of patients for clothing be complied with it would exhaust half the appropriation. It is not customary for hospitals to furnish clothing for their patients. In spite of all our care a large amount of clothing is worn away accidentally or carried away intentionally every year.

When I came to the hospital I found a large number of the employés of the institution receiving pay at a fixed price on the pay-roll, and receiving in addition thereto rations of provisions amounting to from six dollars to thirty dollars per month. I discontinued these rations and established rates of pay as the services seemed to me worth, and I required the employés generally to board at the hospital. This arrangement was acquiesced in pleasantly by the employés at the time, but recently they seem to have discovered that they were very much abused by having their rations withheld from them.

I found a chaplain receiving a hundred dollars per month salary, with fuel, room, and lights for himself and family. His services were merely nominal, as most of the religious exercises were conducted by volunteer preachers from within and without the hospital. He was discharged, and an active, energetic licentiate was employed who did much better service for twenty-five dollars per month and board. Also a musician, who received one hundred

dollars salary per annum, was discharged. Chaplain services are now well performed by wo theological students for their board.

I dismissed the assistant engineer as soon as I found his services could be dispensed with. He was receiving twenty-five dollars per month and board.

I have purchased the meats principally by contract. I have purchased the groceries from two wholesale and retail grocers at a time, so that one might compete with the other, and thus enable me to get the articles at the lowest cash price. I have also kept strict watch of the markets and know that my purchases have all been well made.

I have assigned to duty from time to time in the dispensary, in the wards, and in the carpenter-shop, medical students, who have received only their board as compensation for their services. This I found had been an established custom in this hospital, and it also exists in other well-regulated hospitals. The labor performed by these students would have cost the government more money if performed by paid employés than the cost of the board of the students.

1st. I have employed the same cooks, nurses, and employés generally, whom I found at the hospital, and whose services had heretofore been acceptable to the patients and to the employés. I have provided a good quality of food in every respect and a sufficient quantity, and I have had it well cooked and well served.

2d. I have kept the hospital as clean and well ventilated and warmed in all respects as the nature of the diseases treated and the character of the patients would permit. The wards are swept every day, they are scrubbed twice a week, and parts of them every day, the water-closets are cleaned every day; all of which has been done daily and weekly for eight years at least.

3d. I have supplied the best furniture, bedding, and clothing which the money appropriated would permit. When articles are worn too much for use new ones are provided.

4th. I have never allowed patients affected with infectious or contagious diseases to be placed in such contiguity with other patients as would admit of communicating their diseases. No contagious diseases are allowed in the hospital.

5th. I have arranged the patients and utilized the rooms of the hospital in the best manner possible consistent with the number of nurses and attendants allowed by the amount of money appropriated.

6th. No cows belonging to private persons have been kept on the hospital premises, at the government expense, or to the injury of the hospital.

7th. The lease of the hospital property by the government contains stipulations requiring the government to supply the Howard University with water daily, also to warm and light the parts of the main building reserved in the lease for the use of the medical school. The expense of pumping the water and for fuel and lights for medical department amounts to less than $200 per annum.

8th. I have not abrogated the custom of employing a night-nurse for each ward, but have continued the same nurses whom I found here, and I have insisted that convalescent patients, who were able, should assist the nurses in taking care of the wards, which practice exists in all free hospitals.

9th. All articles purchased for this hospital have been of good quality, and have been procured at the lowest cash price, mostly at wholesale and contract prices.

10th. I have not plundered the government of $15,000, nor any part of it; nor have I defrauded the hospital of that sum, nor any part of that sum. I have not misused, embezzled, perverted, or abstracted one single cent of the government's money, but on the other hand I have striven anxiously and earnestly to expend the money appropriated in the most prudent and economical manner. I have never, since my connection with this institution, had in my possession one dollar of money belonging to the government with the exception of $29.70, for which I have the government's receipt. All the business for the hospital has been done by checks, receipts, warrants, and vouchers, all of which are matters of record and can be traced; and I court and challenge the most careful, rigid, and scrutinizing examination of the same. They are all right to a cent.

11th. It is stated as a specific charge that certain lunatics, idiots, blind persons, and able-bodied paupers are permanent inmates of this hospital, contrary to law and to the comfort of other patients. In reply to this I have simply to say that this hospital was established and has been continued for the express purpose of taking care of these identical persons. There is no other place for them, and it would not only be inhuman to turn them out but it would be a forced and unjust construction of the intention of the appropriation of Congress to treat them otherwise than they are treated here. They are cared for humanely, and in such manner as is for the best interest of themselves and all the other inmates.

12th. Since the first day of July, 1877, two surgeons have been employed in this hospital and paid according to the conditions of the bill making appropriation for the support of the hospital for the fiscal year commencing July 1, 1877. One other assistant surgeon, whose services are necessary, has been employed and paid from the reserved or hospital fund belonging to this hospital. The uncommonly large amount set apart for miscellaneous expenses in the bill for the support of the hospital for the present year was intended to meet this case, as I was informed by the chairman of the House Committee on Appropriation, but the law defining the manner in which miscellaneous funds may be expended prevented its applica-

tion to the payment of a second assistant surgeon. I accordingly approved of his payment from the hospital reserved fund.

Supplementary, first. No rooms in or on the premises of this hospital, not reserved in the lease of the property from the Howard University, have been used for the use of this medical department of that institution, and no such rooms have been lighted or heated except in accordance with the conditions of the lease of the property.

Secondly. No furniture, fixtures, goods, or chattels belonging to the hospital have been used for the benefit of the medical college or the students thereof.

Third. Medical students have been assigned to duty by the respondent in the dispensary, the wards, and the carpenter-shop, in this hospital, from time to time, and in consideration of such services they have had their board furnished them by the hospital; and the board of the students has been no better than the board of the nurses and other employés; indeed they have eaten at the same table, but sometimes at separate hours for convenience. Nothing extra has ever been purchased for them, nor have they ever to my knowledge received any extra article for food.

Fourth. The medical school is an institution entirely distinct from the hospital, and as an officer of that school I am prepared to state, and do state, that its affairs have been managed humanely, discreetly, and prudently, and no *débris* from the dissecting-room has ever been buried on the hospital premises to my knowledge, or by my consent, and it is absolutely impossible for the water used in this hospital to be in any way affected by any transaction or operation of the medical school. As to the charge that "Deceased bodies of patients have been surreptitiously removed from the dead-house, &c.," I have to say to my knowledge nothing of this kind has ever occurred. All autopsies and examinations of dead bodies have been decently and properly made under my own or one of my assistant surgeon's direct observation. I have given no order or permit for any body to be removed from the dead-house except to be carried to the proper place of burial.

Fifth. I have received authority from the Department of the Interior, written or verbal, for the sale of all property which has been sold by me, and I have returned every dollar of the proceeds of such sales to that department with accounts of such sales, and I hold receipts for the same.

Respectfully submitted.

G. S. PALMER, M. D.,
Surgeon-in-Chief.

Q. What was the letter which you wrote bearing on these charges?—A. This is the letter:

FREEDMEN'S HOSPITAL,
Washington, January 21, 1878.

SIR: In view of your statements and intimations made to me as Surgeon-in Chief of the Freedmen's Hospital, in two recent interviews, I respectfully request your attention to the following statement:

During the past summer, numerous complaints about the management of the Freedmen's Hospital were lodged with you, which complaints were mostly instigated by parties desirous to obtain control of the patronage and offices of the institution.

You appointed a committee to investigate these charges. That committee, consisting of Drs. Hood, Ewing and Walsh, thoroughly prosecuted the investigation, allowing it on the part of the complaining witness to take the widest possible range. In many instances it covered matters which occurred years before my appointment as surgeon of the hospital. So determined were they to get at the bottom of everything, that they were utterly uncontrolled by the well-known rules of evidence

These gentlemen spent nearly one month at the hospital. They were brought face to face with the witnesses produced to sustain the charges. They saw the manner in which, and the animus with which, the witnesses testified, many of whom in a single expression of countenance and utterance of a word gave volumes of testimony which could in no way be expressed in any written report. The committee at their pleasure visited all the wards and patients, examined the food, the cooks, the nurses, the store-rooms, all the papers and all the records and books of the hospital in search of truth.

At the same time, during all the examination, the complaining witness and his attorney were present in the hospital night and day, influencing and preparing witnesses, and not a few of the witnesses were made to believe that they must testify in favor of the government, or they would lose their places.

Now I understand from you that this committee have exonerated me, but that you think that the reported testimony does not justify their finding. Is it not just and right that I, having been tried and acquitted by a tribunal of your own appointment, should have afforded me the benefit of that report? You say that I have had the services of excellent counsel. That counsel saw that there was no case against me, and was willing to submit the whole matter without putting in any testimony on my side. Furthermore, I am fully

satisfied that a large amount of valuable testimony has never been reported, and it must be impossible for you to come to a correct judgment without that, or without seeing the witnesses and being personally conversant with the circumstances under which the testimony was taken.

Most of the questions propounded by the attorney for the prosecution were carefully prepared in writing and were leading, all of which were admitted. The answers of the witnesses showed they knew the nature of the questions to be put to them, and their manner of answering was in marked contrast with that shown to the defense, to whom they were at times so violent and unruly as to require the committee to frequently admonish them.

As to the quality of the food bought by me for the institution, I respectfully call your attention to the testimony of the government meat-inspector, Wolf, and to the testimony of Chapman, who was a witness for the prosecution; also to that of the baker, Kaiser, and to Messrs. Galt and Hamilton, who supplied the flour, all of which is in the printed testimony.

I also wish to call your attention to the various improvements that have been made during the time I have had charge of the hospital. When I came here I found an abuse existing in the issuing of rations to those employed. I found some drawing as high as five rations a day, others two and three. As this was not known to the government, I discontinued it, and increased the compensation of some, so that the actual pay would appear upon the rolls. This created considerable feeling against me on the part of several of the nurses and the drivers who were witnesses against me. I improved very much the diet for the sick. The diet in the mess-room has always been as good as I found it; the same diet-table has been followed.

I built what was much needed, an extra diet-kitchen, where the diet for the sick is cooked separately by an extra cook.

I have remodeled water-closets, refloored, reroofed, and repainted and repaired to such extent as the means at my disposal and the circumstances would justify.

I want to call your attention to the fact that the appropriations for the hospital have been annually reduced, so that the present amount is nearly one-half less than it was five years ago. The number of patients in the hospital is about the same.

As to the keeping of resident students I wish to state I continued what had been *established* years before I took charge of the institution. There has never been a time within the last eight years when there has not been students present, all of whom rendered service, the number being limited. The theological students took the place of a chaplain, who was receiving when I came here $100 per month, and had a room, lights, and fuel provided for himself and family, also stabling for a horse, all of which was discontinued by me. The government has not lost anything by the presence of these students; to the contrary, I think it has been a gainer. Furthermore, allow me to state that out of the (230) patients present when the investigation of this institution commenced, only thirteen of them appeared as witnesses against me, and part of these, by their own admissions, were men addicted to the lowest vices, and some of whom had been discharged from other hospitals in this city for misconduct. Taking this fact, together with the character of those who preferred the charges, and the pressure that has been brought by outsiders, who have spared no means to injure me because I would not allow them to control and farm out the patronage of the hospital, I submit, as an act of justice which one man should always accord to another, am I, who have lived so long with an unblemished character and have had charge during the war of the largest hospitals, to have my reputation blackened by a set of persons *utterly* irresponsible, and who have nothing to lose? As an illustration of the spirit that animates the leaders of the crusade against me, I refer you to the article in the Star of Saturday last, signed by Mr. Felton, who styles himself as "prosecuting attorney" for the government, a man utterly bankrupt in reputation and an outcast from his family.

In presenting the additional testimony allowed me, I would respectfully call your attention to the fact that the Freedmen's Hospital is a peculiar institution. Many of its inmates are from the lowest grades of society. They are uncleanly in their habits, rough in their manners, and undisciplined in every respect. Many of them are suffering from the foulest and most loathsome diseases. It requires the greatest amount of care and labor to keep them even decent. Some of them are imbeciles, and are filthy from the very nature of their infirmities. The question should be, whether I have kept these patients and their wards in the highest state of cleanliness which the nature of the case would allow. I contend that I have.

The hospital was put into my hands without any instructions, to manage according to my own best judgment and the precedents which were established by my predecessors. I have followed all the good precedents and have lopped off the bad ones. I have kept steadily in view what I believe the government intended by the appropriation; that is, to confer the largest amount of good upon the greatest number of patients with the smallest amount of money, and not to spend for ornamentation or superfluities one single cent.

I have allowed and courted the fullest investigation. I have honestly, and, as I believe, efficiently, performed my duty.

It is not the position which I hold in this hospital that I care for at all, but it is the man-

ner foreshadowed of leaving it to which I object. I cannot consent to have my character impeached until I have exhausted all the means of defense within my reach.

I would gladly submit my case to a thorough investigation by a committee of Congress.

Very respectfully, your obedient servant,

G. S. PALMER, M. D.,
Surgeon in Chief.

Hon. CARL SCHURZ,
Secretary of the Interior, Washington.

WILLIAM W. PATTON sworn and examined.

By Mr. Eaton:

Q. What is your position here?—A. I am the president of the Howard University.

Q. State the connection, if there is any, between the Freedmen's Hospital and the Howard University?—A. The only direct relation that we sustain is that of landlord, so to speak, to the Freedmen's Hospital. We own the grounds and the buildings occupied by the Freedmen's Hospital, which we rent to the government, to be used in that way.

Q. The contract between you and the government is a written lease, is it?—A. It has been. I know this as an officer of the institution, familiar with its affairs. Of course, I have not myself done the business, but I know it from my knowledge of the affairs of the institution, for I have seen the lease that we have ordinarily had. During the last year, until the beginning of the current year, I understand it was allowed to run on without being formally renewed.

Q. Is it your understanding that the government is your tenant under the old written lease?—A. This current year there is no lease. The government made an insufficient appropriation to meet the rent. We declined to make a lease that should be reduced in terms into writing to meet the reduced appropriation, and the government is simply here on sufferance, therefore, on our premises.

Q. Did you so inform the proper officer of the government?—A. Yes, sir; the one that represented the government to us; that is, Dr. Palmer, who was in charge and acted for the government, and had always acted in making out the lease. The lease had been $4,000 a year rent, together with certain reservations as to the use of part of this building for our medical department, and that had been a written lease. We declined to renew that written lease on the terms offered for the current year by Dr. Palmer; that is, for $2,000 instead of $4,000.

Q. The government continues to occupy the premises?—A. The government continues to occupy the premises on sufferance from us. We have accepted the $2,000, as far as it went, claiming an arrearage of the other half, and waiting for Congress to make an additional appropriation to cover the arrearage of rent. The university owns the steam-engine and everything, in fact, that is here in use by the government, and reserved in renting the premises the right to use this steam-engine one hour per day for the purpose of furnishing water to the university on the hill. We get the tank full, from which the professors houses also are supplied.

Q. That the lease shows?—A. The lease shows that. It is part of the consideration.

Q. That is, the work was to be done with your own engine but at the expense of the government, whatever it might be?—A. Yes. We reserved also the use of certain rooms, that were to be lighted and warmed, for our medical department. The lease shows all the provisions. I have said that this is the only direct relation we have. We

have nothing whatever to do with the management of the hospital in any respect. Indirectly we derive advantages, from the fact that they are contiguous to us, and that our students have been permitted to have access to the hospital in their professional studies; and the same gentleman who has been in charge of the government hospital happens also to be the dean of our medical faculty; and of course that, incidentally, is helpful to us.

Q. If you have had your attention directed to it, I should like to ask you for your opinion as to the value of the property occupied by the hospital, so that we might ourselves arrive at a conclusion as to what would be a fair rent for it. What is the value of the property occupied by the hospital?—A. I can simply say this, that I have been informed, as president, making inquiries myself on the subject, that the buildings cost $100,000.

Q. The buildings occupied by the hospital?—A. The buildings occupied here on this ground; the hospital buildings and medical buildings occupied by the government cost $100,000 in round numbers, aside from the value of the ground.

Q. Are you sufficiently acquainted with the value of real estate in this locality to say what, in your judgment, at the present shrinkage of values, would be a fair price for the ground and buildings occupied by the hospital?—A. I should be hardly willing to fix the price without taking time for some thought on the subject, for I could not give you the exact extent of the ground. The eye, of course, takes in quite an extent of ground at once, but just so much ground is occupied, and as they sell in Washington by the square foot, it makes an important element to know somewhat definitely what the ground is worth.

Q. Can you approximate to it?—A. I am not sufficiently acquainted with the extent of ground to quite dare to say.

By Mr. SARGENT:

Q. Is a rent of $4,000 a year a reasonable rent for such premises?—A. We have considered it very cheap. The rent used to be $5,000.

Q. Do you know of the present Secretary of the Interior having written a letter to the Committee on Appropriations of the House of Representatives asking for the additional $2,000?—A. He told me he would. I have had correspondence with him on this subject in which he recognized the justice of our claim and said he would bring it to the attention of Congress at the present session. I have his statement to that effect in writing, and suppose he has done so, but I have no knowledge of the fact whether he has or not. I should also like to state another point, inasmuch as attention has been called to it in the papers. It has been represented, I have seen in the daily papers here, that Howard University was deriving in some improper way support from this hospital, particularly in the matter of students. It has been represented that the students of Howard University were being virtually supported, as it were, here at the hospital. I should like to say that knowing all our students to be poor and needing help, I have inquired to learn how they received it, and so far as I have been able to learn there have been only five or six students in all receiving help at any one time, part of them medical students, and one or two of them theological students; that the theological students acted as chaplains to this large establishment for their board, which we consider a very cheap thing for the government. Of course the young men in their poverty were glad to get even that much chance to work and support themselves.

By Mr. EATON:

Q. Did you say two?—A. Two in the theological department, part of the time; and one, part of the time. Dr. Palmer, of course, knows more definitely because he made the arrangements, but that is my understanding of the case. There has been either one or two young men usually during the last year or two here from the theological department who acted as chaplains in the institution, and received their board as their pay.

Q. With regard to medical students, how is it?—A. I have heard, as president making similar inquiries as to what our medical students did for support, that there were three or four medical students who were from time to time here as what are called resident students, giving assistance in the hospital in a sort of professional character, half nurse I suppose and half physician, to assist the doctors in the care of cases that needed particular attention, and they have received their board. I have made some inquiries to learn from physicians if that was customary, and have been informed that it was. But they can speak for themselves.

The subcommittee then proceeded to go through various wards examining witnesses.

WARD NO. I.

MICHAEL BOYLAN (white) sworn and examined.

By Mr. SARGENT:

Question. How long have you been here?—Answer. Two weeks last Wednesday.

Q. What is your treatment here at the hospital?—A. Pretty good.

Q. Do you find the nurses and doctors attentive?—A. Yes, sir; very much.

Q. What do you have to eat? Is your food wholesome and well cooked?—A. Very well cooked, and considering that there are so many here it is very good; good doctoring and good treatment indeed.

Q. Is there any further statement you wish to make?—A. I know of nothing.

CHARLES RALLETTE (white) sworn and examined.

By Mr. SARGENT:

Question. What is the number of this ward?—Answer. No. 1, I think.

Q. How long have you been here?—A. I believe I came on the 21st of January.

Q. How do you find your treatment here at the hospital?—A. I find my treatment very well, considering. I have a first-rate physician. He has lifted me up wonderfully since I have been here. I came here in a dying state with most terrific chronic diarrhœa, and he has built me up wonderfully.

Q. Do you find your food and attendance good?—A. Very good indeed. I do not think there could be any fault found so far as I am concerned.

Q. How about the cleanliness of the beds, the floors, and so forth? Are they kept in good order?—A. Well, I think under present circumstances that they cannot be done much better. The place wants renovating, of course.

Q. Are the floors always as clean as these seem to be?—A. Yes;

they work on the floors three or four times a week. They do their duty as far as I have observed. I do not think there is anything left undone.

Q. Do you find the quality of the food good?—A. Well, sir, I have precisely what the doctor orders me for my disease, in good shape it seems to be; and I think, from what I see that, every man is allowed to take what is ordered him.

By Mr. ALLISON:

Q. Do you leave your bed during the day?—A. Very seldom yet.

Q. You do not go to the mess-table?—A. No, sir; I cannot go.

By Mr. SARGENT:

Q. You receive your food by prescription?—A. Yes, sir; it is ordered by the doctor.

JOSEPH GOOD (colored) sworn and examined.

By Mr. SARGENT:

Question. How long have you been in the hospital?—Answer. Ever since last May.

By Mr. EATON:

Q. Do you recollect the day of the month?—A. May 28.

By Mr. SARGENT:

Q. What has been your treatment in the hospital?—A. First-rate; no fault to find since I have been here.

Q. Have you had good food?—A. Yes, sir; good food and the place kept clean.

Q. Do you find that to be the case throughout this ward?—A. Yes, sir; throughout this ward.

By Mr. ALLISON:

Q. Has it been so ever since you have been here, about the same uniformly?—A. Yes, sir; pretty much the same.

By Mr. SARGENT:

Q. Has there been any change during the last three months; that is to say, is it these last three months any different from what it was before?—A. No, sir.

Q. Something has been said in the papers about putrid food being given to the patients. Do you find any such food?—A. None has been given to me.

Q. Have you seen any given to any others?—A. No, sir.

Q. Is the food well cooked?—A. Yes, sir; well cooked.

Q. Is the bread sweet?—A. The bread is good.

Q. How about the meat?—A. The meat and bread are both very good since I have been here.

Q. Have you been kindly treated and well taken care of?—A. Yes, sir.

Q. Is there any statement you wish to make?—A. None at all.

Q. None of the doctors are here, and nobody having any charge of the institution; you are before a Senate committee, and are free to speak about anything to us.—A. I understand.

Q. How is it about the attention of the physicians to you?—A. First-rate, sir. Come here and you can see (exhibiting an amputated foot).

Q. You came here with a wounded foot?—A. Yes, sir; frost-bitten.

Q. And it was amputated?—A. Yes, sir.

Q. And they have taken excellent care of you?—A. Yes, sir.

JOHN BRESNAHAN (white) sworn and examined.

By Mr. SARGENT:

Question. How long have you been at the hospital?—Answer. Since the 11th of January, in this ward. I was, two weeks before that, upstairs for six days; got a relapse, and came in again, and requested to be brought into this ward.

Q. What is your treatment in the hospital?—A. I find my treatment right good; so far as doctoring, the best I ever saw, for I have been sick for the last eight years, and tried a good many doctors in the city, and never found a more experienced doctor, to my knowledge, than Drs. Glennan and Palmer. I made application to them for two weeks, coming in for medicine, and never found it so good in my behalf.

Q. Are the doctors attentive? Are they here every day?—A. Most every day. Dr. Glennan comes twice a day to visit the patients. I requested him, once, to give me a change of diet, and so he did. I find the diet always good enough.

Q. Does Dr. Palmer come also about the hospital?—A. He does not come to this ward unless he goes through to inspect it.

By Mr. ALLISON:

Q. Does he come through to inspect it?—A. I see him coming through once a week, regularly.

By Mr. SARGENT:

Q. Is the food you get good?—A. As good as I ever saw in any place for the like of a hospital. I get very good, healthy corn-bread; very good, healthy wheat-flour bread; hominy, rice, coffee, and tea, enough for me to eat.

Q. How is it about potatoes?—A. We get potatoes, too.

Q. As many as you want?—A. No; not quite as many as I want. Sometimes I get one or two. Sometimes, perhaps, I do not care about potatoes for my disease at this time; they do not suit it very well.

Q. There is no stinting in any kind of food—potatoes, or anything else, is there?—A. I see enough to eat, for myself, more than I can eat, since I have come in.

Q. Do others about you in the ward seem to have enough?—A. I cannot account for them. I see everybody, when he asks for more, getting it.

Q. How about the cleanliness of the room and beds?—A. It is just as you see it now.

Q. It looks clean to me now.—A. It has to be cleaned every day after the night; when the nurses come in the morning they clean it up; and it is at this time of the day every day as you see it now.

Q. Has it always been so since you have been here?—A. Always since I have been here attended to and washed every other morning or through the day.

Q. It has been so ever since you have been here?—A. Ever since I have been here.

WILLLIAM WILLIAMSON (colored) sworn and examined.

By Mr. SARGENT:

Question. How long have you been here?—Answer. Two months.

Q. How do you find your treatment here?—A. I find it pretty well on the food, but very slim in clothing.

Q. The government did not give you a suit of clothes when you came?—A. No, sir.

Q. What disorder did you come with?—A. My toe was cut off.

Q. Frost-bitten?—A. No, sir; crushed.

Q. And you thought the government ought to have given you a suit of clothes?—A. Yes.

Q. Which it did not do?—A. It did not do it.

Q. You say your food is good?—A. Yes, sir; the food is good.

Q. Do the doctors take good care of your foot?—A. Yes, sir; they take good care of my foot.

Q. Is the hospital generally as clean as it is here?—A. Just this way all the time.

Q. And has been all the time you have been here?—A. Yes, sir.

HENRY BAER (colored) sworn and examined.

By Mr. SARGENT:

Question. What position do you fill in this ward?—Answer. Attending to the sick, keeping them clean, feeding them, and attending to their medicine.

Q. Is this ward No. 1?—A. Yes, sir.

Q. How long have you been in this hospital in that employ?—A. I have been connected with the Freedmen's Hospital some thirteen years.

Q. Have you been in this hospital ever since it was started?—A. No, sir; I was up-stairs at the time Dr. Reyburn was here, and there were two nurses down here. Dr. Palmer took them up-stairs and brought me down here.

Q. What kind of food has been given to the patients during the last two or three years?—A. Beef, hominy, rice, fish in season, sweet potatoes, and all such things.

Q. Are the articles good in quality?—A. Yes, sir; sometimes it is not cooked or something is not so good.

Q. Occasionally an article of meat may not be well cooked?—A. Yes, sir.

Q. How is the cooking generally?—A. The cooking generally is pretty good. Sometimes it is not cooked as well as others, but sometimes again it is cooked pretty well. We hardly see anything about it.

Q. Are the same cooks here now that were three months ago?—A. Yes, sir.

Q. And the same there were three years ago?—A. There are some new cooks, I think, within three years.

Q. Better cooks?—A. They have shifted them.

Q. Are the cooks as good as ever they were here?—A. Well, we had some cooks four or five years ago that I think were a little better than these here; but they are pretty good cooks.

Q. How much change has there been in the cooks during that time? Tell the names of the cooks that were here four or five years ago that are not here now.—A. Of the women there was Ann Henrietta Gant, Hester Armstead, and then Fred Frazier and Louisa Frazier his wife, and that was about all.

Q. They were here four or five years ago?—A. Yes, or more that that, perhaps.

Q. Tell us those who were here three years ago who are not here now.—A. Hester Armstead, I think, is one of them, as near as I can get at it, and Ann Henrietta Gant. That is about all.

Q. How many of those who are here now were here three years ago? —A. Butler, John, Sam, and Eliza Gray. Those I know were.

Q. Who is the head cook now?—A. Butler is on the full diet; that is, for the dining-room.

Q. Do you always keep this ward as clean as it is now?—A. It is as clean as ever since I have been here, and I keep it as clean. It was not as clean when I first came and that was the reason of the shifting.

Q. How long is it since you came here?—A. I think it has been about four years.

Q. Then during the last four years you have kept this ward as clean as it is now?—A. Yes, sir; I kept it as clean from the first start after the change of nurses. That is what they made the change for. Ever since then it has been kept just as you see it now. Any time you would have found it just as it is now. I kept it so. If I attend to anything, I do it right or I do not want to do it at all.

WARD NO. II.

ROBERT T. JOHNSON (colored) sworn and examined.

By Mr. SARGENT:

Question. How long have you been at the hospital?—Answer. July 9, 1877, I came. I have been here seven months or over.

Q. What is the trouble with you?—A. My sickness?

Q. Yes, sir.—A. I do not know. I have never been able to tell anything about my sickness until yesterday. The doctor examined me yesterday very closely. I have had a trouble. I have not been able to sit down in a chair without great pain for the last eight or ten months. I seem to have soreness in me somewhere. I did not know whether it was under my testicles or in my rectum. I was under the impression that it was in my rectum. I have told the doctor several times it was in my rectum, but they seemed to think no, it was in the urethra, and they treated me for the urethra and have treated me seven months, and here I am to-day worse than I was when they commenced to treat me. I insisted that the doctors should examine my rectum; I thought something was wrong with it. I commenced to pass blood the last two or three days. I told the doctor I was not going to suffer longer, and intimated I would get an outside physician. So he examined my rectum and found my bowels all ulcerated; so he told me; and now he is treating me for that. That is all I know about it. I never knew before. He said he thought it was inflammation of the urethra. He was not sure; he only thought it was inflammation of the urethra. I think, though, that they have got to it now, because I was satisfied it was in my rectum.

Q. What statement have you to make with reference to the food of the hospital?—A. Now, I have not anything to say, more than it is very good, enough to satisfy any person at all. I am very well satisfied myself and have been for a month or two. I get enough to eat now, and get food that is fit to eat now in the last two months, or probably a little longer.

Q. Do you eat it from the mess-table, or is your food specially prescribed for you?—It is not specially prescribed for me. There is an extra beefsteak now prescribed for me, and has been for about a couple of months. That is all the extra food I get, a piece of beefsteak.

Q. There is a distinction between the mess-table and the wards. Which head do you come under?—A. I come under the ward. I cannot go to the mess-room.

Q. Has that been so with you all the time? Have you always come under the ward-head?—A. Always under the ward. I have always taken my meals in the ward.

Q. Then you do not know anything personally about the mess-table?—A. I have seen it; I never ate anything from it. I was ordered to eat in there, and I went outside and took my meals in a restaurant. I told Dr. Palmer that rather than eat there I would go out.

Q. What restaurant did you go to?—A. To the Morton House on F street.

Q. Give me an idea when you went there?—A. I do not remember the day. I went out many times—not once, but several times.

Q. Do you know the proprieter of the Morton House?—A. No, I do not know anybody there.

Q. Do you know the steward, waiter, or cook?—A. No person.

Q. How often did you go there?—A. I think only on one occasion; that day I had to go to the Interior Department, and it brought me over to the Morton House. I went down there in the basement; a German man waited on me; I do not know who he was.

Q. What other restaurant did you go to?—A. I just dropped in now and then to get a meal.

Q. Have you done that within the last month or two?—A. No; I have not been out of this bed in two months.

Q. Did you have to go to bed soon after coming to the hospital?—A. No, sir; when I came to the hospital I had been sick some time, but I did not go to bed for a long time. I have only been put in this bed the last sixty-five or seventy days, I think, a little over two months. I have been here altogether about seven months. I can tell you near about what months I went out and got my meals.

Q. At the Morton House?—A. At different restaurants; I do not know exactly; I cannot say because I did not take the time, but I know about the time I had to go out to get food fit to eat. Everybody here knows that I did go out for that purpose. They would not give me anything to eat in that ward—told me I must eat in the mess-house. I had either to do that or go out; so I went out.

Q. What days did you go out?—A. What days in the week?

Q. Yes.—A. I cannot tell you that.

Q. What was your objection; that there was not enough food, or that it was not good?—A. Two objections. It was not good. I do not say there was not enough in the mess-house, because I did not eat any of it. I could not tell how much would satisfy me till I ate.

Q. What article of food was not good?—A. I saw rusty-looking pork there, such as I have seen up in the ward; it looked just the same to me; and corn-bread and coffee.

Q. Was the corn-bread bad?—A. It was not bad. I suppose it was good corn-meal, but it was made up very poorly—just bread and meal and water.

Q. You did not taste the pork?—A. I did not taste anything.

Q. Then you do not know whether it tasted good or not?—A. No, sir; I did not sit down.

Q. You did not sit down to the table at all, and did not taste any of the food?—A. No, sir.

By Mr. EATON:

Q. Was there white bread also on the table?—A. I think there was. I am not sure.

Q. You did not taste it?—A. No.

By Mr. SARGENT:

Q. You do not know, then, whether it was good or bad?—A. No, sir; not by the taste. I do not know anything about the mess-house food.

By Mr. ALLISON:

Q. Have you been up at all, or so that you could go to the mess-table, since you have been placed in this bed?—A. I have been well enough to walk out in the street, but I have had no constitutional sickness. The doctor says if I can walk, to walk. I have, I think, about twice or three times walked out in the street down Seventh street.

Q. Now you say you never ate at this mess-house?—A. In this time I have not been there at all.

Q. But from the time you first came you would not go to the mess-house and would not eat there?—A. I never sat down there at all.

Q. How did you get your food during all that time?—A. Before or after?

Q. Before you were put on this bed?—A. It was brought here in the ward.

Q. Although you could walk to the mess-house, still you had your food brought here?—A. Brought here in the ward.

Q. Was it good or bad?—A. This was good food I am telling about now.

Q. I am speaking now of the time from the 9th of July until sixty-five days ago?—A. Yes, sir; I think I can give you an explanation.

Q. I want to ask you. You say you did not eat at the mess-house at any time?—A. No.

Q. Where, then, did you get your meals during those five months, or whatever time it was?—A. When I came in on the 9th of July, I came into this ward. I was a man who could not sit down and could not go around amongst the crowd; the doctor ordered me. I did not say anything to him about it here in the ward. The nurse brought my meals in with the meals of the rest of the patients, and I ate them the best I could. At first I did not get enough.

Q. In the first place you did not eat at the mess-house?—A. No, sir; he did not tell me to go there at first.

Q. And your meals were brought in here?—A. Yes, sir.

Q. Now, what were they; what did they consist of?—A. For breakfast I would get fish, a piece of mackerel, and that mackerel very often was tainted and smelt bad, and was so salty that a well man could hardly eat it if he had been shoveling coal; he would not have appetite to consume it. Besides, it smelt tainted and rotten; I do not mean to say it was completely rotten, but it was tainted and bad—smelt very bad. I got a mackerel, a piece of wheat-bread, and a cup of coffee; no butter. That is what I got for my breakfast, and that was all.

Q. What did you get for dinner?—A. An Irish potato, that big around [illustrating], and I would swear it was no larger; it was in its jacket, and only one; a piece of bread, a cup of soup, and a piece of beef that had the muscles of the beef's leg in it. I know meat well. I am a caterer, have kept a restaurant, and am a pretty good judge of meats, and I could just look at it and see the muscles of the leg in it. It was so hard I could hardly bite it. Sometimes I would eat it if I did not feel well enough to go home to my mother's house, but I went there if I could manage to crawl out. I would tell the nurse I was hungry and ask him to get me more. He said they would not give it to him, and would not allow me to have more.

By Mr. SARGENT:

Q. What was the name of the nurse?—A. Lucius Hawkins and Henry Saunders. I would say, "Please go down and try to get me a little more beef; I have not enough to sustain me, and I am getting weak and sick."

By Mr. ALLISON:

Q. Where does your mother live?—A. At the corner of Beale and Monroe streets, Georgetown.

Q. You used to go there and get your meals?—A. I did.

Q. And to this restaurant?—A. Yes, sir; I would just buy what I was able to pay for. I did not have any money of any consequence. I have always had a little money. I would get twenty-five cents' worth of something to eat, the best I could do for that, pork and beans, or something of that kind—no regular board.

Q. Did you make complaint to the surgeon of the hospital of the food in the ward?—A. I told him the food was bad, rotten, smelt bad; that I did not get enough of it, and had to go home and get something to eat.

Q. What did he say to that?—A. He said, "You know very well you do not get rotten food," and holloed at me and looked pretty sharp. I said, "Doctor, I might as well tell you up and down I cannot live on that stuff; I am a man that generally speaks just like I think, and I tell you I get rotten food. My meat is rotten, and it is not any lie of my own making. I must tell you the truth. Every man in the ward knows it. I have called patients and asked them to smell it.

By Mr. SARGENT:

Q. What is this doctor's name to whom you told this?—A. Dr. Purvis. This is what I said on the first occasion. Then I told them all so afterwards. I said to the nurse, "Come here; I want you to see my food." I showed it to him and said, "You see that meat is green; now smell it; does it not smell like rotten?" He said, "Yes." I called the other ones and showed it.

By Mr. ALLISON:

Q. The same men whose names you have given?—A. The same names.

By Mr. SARGENT:

Q. Is the same food given to you in this ward as to those in other wards?—A. I only know that by hearsay. They tell me it is the same. I have asked them over and over again.

Q. Have you inquired in Ward No. 1, right underneath?—A. Frequently I have talked with patients. They tell me the same thing.

Q. Give me the name of a patient of the lower ward, ward one, that has told you.—A. There are so many going in and out that I do not know the name of one.

Q. Can you give us one?—A. I do not remember one—well, yes, there is one named Callahan told me.

Q. Is Callahan there now?—A. I think he is. I do not know for sure. Several of them have told me that. A man named Murphy, I think, told me, but I am not positive, because I do not remember such things as that.

Q. You speak of the food at the mess-table in certain charges filed with the Secretary of the Interior. Did you write those charges yourself?—A. Yes; I wrote them.

Q. You wrote them yourself?—A. I did.

Q. Is the paper in your handwriting in the department?—A. The charges filed with the Secretary of the Interior against the Freedmen's Hospital were written and filed by me.

Q. In your handwriting?—A. Yes, sir.

Q. I ask you to write your name right there on the piece of paper I hand you; or write, "this is a pleasant day in February," and sign your name, or write any other immaterial thing you see fit.—A. I am not in very good condition to write now, but I will try.

[A piece of paper was handed to the witness and he wrote.]

I am very nervous now. I was sitting up when I wrote that. I can write half a dozen different hands, but this is the hand I wrote them charges in (pointing to what he had just written). Here is some of my writing you can see, the same as those charges. There is the same identical hand (exhibiting a paper). This is a paper I drew up for a friend of mine. I cannot write very well, now, because I am too nervous, too sick. I have been lying in bed two months. That is enough to break a man up.

Q. Have you, during the last five months, walked about the hospital much?—A. Yes, sir; when I am not very real sore I get up and walk every time I can.

Q. How often do you walk?—A. I have not walked for a month now, I believe.

Q. How often were you accustomed to walk before that?—A. When I first came to the hospital I walked every day.

Q. Where did you walk?—A. Out on the hills and over the streets and down in the city, as far as I could, until I would take the cars. I never laid down until I could not go any longer.

Q. You were allowed to remain here when you were going all over the city, and had money to buy your food elsewhere?—A. They did not allow me any money. I bought food with money my friends gave me. They do not care here where you go. There is no rule.

Q. How is it about the cleanliness of the hospital?—A. It is very good now, but it was very bad when I came in here and for two or three months after I was here.

Q. You say that these floors are more clean now than they were three months ago?—A. No; these floors were about as clean when I came here as now. They always looked very clean and nice. I spoke about the utensils, the bedding, the bed-clothing, the mattresses.

Q. Is the bed clothing different?—A. Every mattress in the ward has been taken out and a different kind substituted for them; here is the kind I first got, a straw tick all filled with blood—looked like a man had been cut up on it, excrements and everything else.

Q. Did you open it to see?—A. I do not mean inside. I mean on this part [putting his hand on the outside of the mattress]. I have often seen it.

Q. What do you call this tick here now?—A. I do not know; something that has been on it ever since I have had it.

Q. Did you say that this had been changed?—A. I say this has been on this mattress ever since I have had this mattress. This is a new mattress. It is not the one I had. After the investigation commenced they brought this mattress, and they brought that one [indicating] and all here.

Q. I see a spot on this. It would look as if it was not put here new on account of any investigation, for if so why did they bring you one with a spot on it?—A. These things are not all new. Here is a blanket

that was put on me two or three days ago. It is supposed to be a new blanket, but it is not a new blanket. I know that.

Q. It looks like a comfortable and clean one?—A. It is a comfortable one and clean.

Q. Do you object that it is not new?—A. I do not, but I saw some lice come off one that came in the same lot two or three days ago. It could not be very clean under those circumstances.

Q. Where did you see them?—A. Off that third bed. The man there got them off and showed them.

Q. Do you mean Mr. Felton?—A. No, not Mr. Felton; but a new man, a soldier, who has been here only two or three days.

Q. Do you not know that patients coming in newly to a hospital bring lice with them sometimes?—A. Sometimes they do.

Q. May not this soldier have been showing his own lice?—A. It might have been. I do not know. He was a very clean-looking man, though, when he came here. He is not a soldier now, but he has done service in the field. He came here from New York. He has been with his wife and family.

Q. A white or a colored man?—A. A colored man.

Q. How old is he?—A. About 45 or 50 years old. He is not right out of the Army. He has been out of the Army since 1864 or 1865. He went in in 1861.

Q. Are there any persons with contagious diseases in this ward at present?—A. No, sir; this ward is in very good condition at the present time, but there has been lots of them.

Q. Give us the names of any patients ever here with a contagious disease.—A. One old man—I do not know his name—and a man called Ross, nearly opposite me—old Pap Ross.

Q. You say he had a contagious disease; what was it?—A. I did not ask him, so I do not know; I did not talk to him much; he had the end of his penis off; I think it is syphilis.

Q. Is that a contagious disease?—A. Yes, sir.

Q. Except between the sexes, and in separate beds?—A. Yes, sir.

Q. That is what you mean when you speak in your charges of contagious diseases?—A. Not only syphilis, but there is men here right in the wards that has been almost in a large lump of matter with consumption, coughing and spitting around; all of them drinking out of the same dipper that I am compelled to drink out of, the only one here. There are men with scrofula. There is a boy here now with scrofula; he is almost rotten with it; he has been here, and is now.

Q. What is his name?—A. John Norris.

Q. What ward is he in?—A. This ward; he sleeps in that third bed.

Q. I see they all have separate beds here?—A. Yes, sir; I did not file any charges against the hospital at the present time. I filed charges against the hospital up to and taking in all previous to September and October. Of course I do not prefer charges now.

Q. This document that I hold in my hand, which you say you wrote, does not make any distinction, so far as I see, between September and subsequently.—A. It does at this time.

Q. I have discovered no such distinction; if I do I will correct my statement. Do you say that you wrote that document?—A. It is not my handwriting.

Q. It is a copy of it?—A. I guess it is.

Q. You think that the consumptive patients should be turned out of the hospital?—A. No, sir.

Q. But why not, if it is so disagreeable to have them here?—A. I have

seen other hospitals where consumptive patients, bad ones like them, where people cannot sleep in the ward without being woke up five or eight or nine times a night, are put into a room. I have always seen them isolated. I have seen it at Providence Hospital and other hospitals where I have been in through visiting.

Q. I suppose you are aware that the appropriation for this hospital is limited. You know how much more attendance it would take to put a consumptive person in a room by himself, to see that he did not die in the night, and had his wants attended to; or did you never think of that?—A. I have seen them put in a room and left there to die in there for that matter, and nobody ever went in the room where he was for twenty-four hours. It has been done here in the last two months past.

Q. Who was the nurse that neglected his duty in that way? Give me his name.—A. The man's name was Hawkins—the man is in this ward.

Q. Mr. Hawkins is the one who having a patient in charge did not go in to him for twenty-four hours?—A. I do not say positively twenty-four hours, but I say eighteen or twenty hours, or probably twenty-four. Of course I did not mark the hours down. He did not go in there all night; never went into the room to him all night and pretty near all day.

Q. Where is that room?—A. At the other end of this ward.

Q. Is that not out of your sight?—A. Out of my sight.

Q. During the last two months you have been in this bed?—A. Yes, sir. If you want to restrict me right down, I do not mean to say it might not have been three months. I do not know the day and date.

Q. What was the name of that patient?—A. I have seen one or two of them put in there under the same circumstances. This one, I think, was named Rider.

Q. Is he still in the hospital?—A. He is dead and gone. He died in there and was found in there stiff.

By Mr. EATON:

Q. You remember that you are now testifying under oath?—A. Yes, sir.

Q. Do you know of your own knowledge that this nurse did not go in there for 20 or 24 hours?—A. Eighteen or 20 or 24.

Q. Were you awake all the while.—A. No, sir; I was not awake. I only take it from what the patients say.

Q. Then you do not know it?—A. No.

Q. Then say that you do not know it?—A. The nurse said it himself. He told me. Of course I did not watch the room.

By Mr. SARGENT:

Q. You say Mr. Hawkins told you he did not go in to this patient for 18 or 24 hours?—A. Mr. Hawkins told me he was so busy in this ward that there was a man lying in that room that he could not go in and attend to as he should.

Q. And on the strength of that you say he did not go in for 18 or 20 hours?—A. Yes, sir; for a good long time. I am telling you to the best of my knowledge now. Of course I am under oath. I do not mean to name the hours particularly, because I might be wrong. I did not take the time.

Q. In these charges you say something about Dr. Palmer allowing private persons to keep their cows in the hospital yard, which are fed by government feed. Do you know that of your own knowledge?—A. I said that in the charges, and I believe I proved that.

Q. I ask what you know of it?—A. I do not know of my own knowledge what feed they got. I know what I heard a man swear to.

Q. That is not an answer to my question.—A. That is all I know.

Q. Then you know nothing of your own knowledge?—A. I do not.

Q. These charges were put in before you heard anybody swear about it, were they not?—A. Yes, sir.

Q. Give me the name of any witness who knows that the feed for these cows was furnished at government expense.—A. Daniel Reed. I am pretty sure it was Daniel Reed.

Q. Where is he? In the hospital?—A. He was here.

Q. Where is he now?—A. I cannot tell you. I suppose he works here. He is a driver. He does not stay here; he is out all the time.

Q. Who else?—A. Robert Delany, I think, is the other's name. He has charge of the feed.

By Mr. ALLISON:

Q. How did you discover this fact in order to put it in your charges? —A. About this feed?

Q. Yes, sir.—A. I came here. I was not completely dumb. I saw three very fine cows here the first time I came in, and I was admiring them. I knew nothing about the premises and place, but I thought they were quite pretty cows, and I happened to say to one of the employés, "Those are three beautiful cows; do you keep those cows here all the time?" He laughed, and says, "I am not allowed to say." I said, "Do these cows belong to the hospital?" and he said, "No." Afterward I found out one of them was sold to a private man outside.

By Mr. SARGENT:

Q. How did you find that out?—A. I saw the man have the cow, and he showed it to me and told me he bought it at the hospital, from one of the surgeons. That is how I know it.

Q. How many night-nurses are there in this ward?—A. There has only been one since I have been here.

Q. Is there one night-nurse in this ward every night?—A. Yes, sir; for the last two or three nights one of the patients has been sitting up here, helping the nurse.

Q. It has been the regular custom since you have been here to employ a night-nurse for this ward?—A. Yes, sir.

Q. For each ward?—A. I do not say that.

Q. You do not say of the other wards, of your own knowledge?—A. I do not.

Q. What did you mean, then, by stating, in your written charges, that they have abolished the custom of employing a night-nurse for each ward?—A. There is a night-nurse in this ward.

Q. Do you know, of your own personal knowledge, that the custom has been abolished, or that there is not a night-nurse in each ward?—A. All I know about it is, that the nurse here cannot do what he ought to do, and he tells me——

Q. That is not a response to the question.—A. They call him out to go to other wards. I only know about this ward.

Q. Then the custom is not abolished of having a night-nurse in this ward?—A. Not in this ward.

Q. What is the custom in this ward when any person dies in it about removing the body to the dead-house?—A. In what respect?

Q. Are they laid out here and washed, dressed, and removed, or are they taken at once—the moment they die—to the dead-house?—A. All

I have seen of it is this: I see men dying here, and I see them going to get the dirty clothes they came in here with, put them on a stretcher, and take them right off to the dead-house. I cannot tell you any more. I can't tell you what I heard; but that is what I see.

Q. They are not washed?—A. I do not see them washed.

Q. Do you know they are not?—A. I do not say they are not washed. I only tell you I see them put on their dirty clothes.

Q. The clothes they came to the hospital in?—A. Yes. I saw it, and was astonished; and I asked if these were the clothes they came in with, and they told me yes.

Q. How long after they die are they removed to the dead-house?—A. As soon as they can get on the clothes they put them on a stretcher.

Q. Then you say they are not washed and not dressed?—A. I never saw them washed.

Q. You never saw anything done except putting the clothes on?—A. I do not remember seeing them do anything more than putting the clothes on and putting them on a stretcher.

By Mr. ALLISON:

Q. How many have died in this ward since you have been here?—A. I cannot begin to tell. I know a great many.

Q. One hundred?—A. I cannot say positively it was one hundred; but I am pretty sure there has been somewhere between twenty-five and one hundred. I cannot say how many.

By Mr. SARGENT:

Q. Between twenty-five and one hundred in this ward here in the last seven or eight months?—A. There may have been sixty.

Q. In this ward, since July, there have been from twenty-five to one hundred dying—you think about sixty?—A. No; I do not say I think about sixty.

Q. What do you say?

By Mr. ALLISON:

Q. More than twenty-five, and less than one hundred?—A. That is what I say. I am pretty confident there has been more than twenty-five and less than one hundred. I did not count them.

By Mr. SARGENT:

Q. Do you know what the expenses of the hospital are a year?—A. No, sir; I do not.

Q. Did you not state in your charges what the expenses were?—A. No, sir; I did not, because I never knew.

Q. Did you not state in the 10th article of these charges that "the hospital under its present management does not exceed $25,000 per annum in cost?"—A. Yes, sir; I did that.

Q. How did you state it if you do not know?—A. I made them out as near as I could come to it. I was under the impression that was about what it was.

Q. What are the elements of your calculation?—A. I have a memorandum that I could refer to.

Q. Have you your memorandum here?—A. No, sir.

Q. Where is it?—A. I cannot think where it is, because I have so many papers in different places. I think I destroyed it. I am pretty sure I have. I made a calculation, of course. The medicines were something I did not touch and go into, but I went into everything else pretty near except medicines and made a pretty good calculation, and I came to that conclusion as near as possible.

By Mr. ALLISON:

Q. Who aided you in getting up these things? Who helped you to get up these charges generally?—A. Of course I had counsel and had consultation with him.

By Mr. SARGENT:

Q. Did he get up the statement, or did you get it up?—A. About these calculations?

Q. Yes.—A. I made a calculation myself of my own, a rough calculation, and then I revised it a little. Of course I showed it to him, and on consultation I believe he made a rough estimate.

Q. Do you know what the rent paid by the hospital is?—A. Yes, sir; I do now.

Q. Did you at the time you made the calculation?—A. Yes, sir.

Q. How much is it?—A. Two thousand dollars now. So I understand it. Of course, I do not know it, but I understand it to be that.

Q. What is the paper you have in your hand?—A. Nothing concerning this matter.

Q. Do you know how many nurses there are employed in the institution?—A. No, sir; I do not know how many.

Q. Do you know what wages are paid to them?—A. I know what they told me. That is all.

Q. Have you inquired of them all?—A. I might have left out one or two. I have inquired of a good many of them.

Q. What their wages were?—A. Yes, sir.

Q. Give me the names of those you have inquired what their wages were, outside of this ward.—A. There is Mr. Chase.

Q. You asked Mr. Chase, did you?—A. Yes, sir.

Q. What ward is he in?—A. I do not know. It is over in that ward. (Pointing.)

Q. Whom else did you ask?—A. I think I asked a man down-stairs named Streets, a day-nurse.

Q. Any other?—A. I asked another nurse, named William Brown. I asked one of the female nurses, named Keziah Briggs.

Q. When did you ask this question?—A. I cannot tell you; really, I do not know the month or the day.

Q. Six months ago, or two months ago?—A. Since I have been here, inside of six or seven months; I do not know how long it has been.

Q. Can you not come somewhere near it? Did you ask them all about the same time or at different times?—A. I asked them at different times.

Q. Do you know what the physicians are paid?—A. Yes, sir.

Q. Did you ask them?—A. No, sir; I did not have anything to say to them.

Q. How much are the physicians paid?—A. I do not know exactly. I cannot tell you. I have got that here, I think. Of course I cannot remember all these things (Examining papers). I have a little rough calculation here.

Q. Is that the calculation you are speaking about?—A. No, sir; this is something else. It is only a mere memorandum. I will show it to you. Now, there is my memorandum (handing a paper); I took it out of the Congressional appropriation bill, which I got at one of the departments. I made it out because they tied me up in knots.

Q. What do you mean by saying you were tied up in knots? Explain what they were.—A. Well, the things they did.

Q. Were they injurious to you individually?—A. Not injurious to me that I know of.

Q. What do you mean by "knots" and being "tied up"?—A. They tried to puzzle me; put questions to me. I have had questions put to me that I thought was not altogether fair.

Q. Was that since the charges?—A. Yes, sir.

Q. How do you explain that you went into this careful calculation on account of their trying to puzzle you and tying you up into knots, when you seem to have made the calculation before filing the charges?—A. I will give you a full explanation in regard to this thing, but not in regard to the knots.

Q. You say, in explanation of your having these memoranda, that you made them up on account of your finding they were asking you puzzling questions, and trying to puzzle you, since the investigation commenced?—A. Yes, sir.

Q. Now, I want to know why you make a statement showing that you made the calculation before the charges themselves, which were before any such questions were asked you?—A. I did not say I marked this down before any questions were asked me or any charges made.

Q. How then does it appear that $25,000 foots up the same as in the charges?—A. I have referred to the book I got this from on three or four different occasions in the department. I can find them there. I have been there on several different occasions.

By Mr. ALLISON:

Q. What department?—A. The Treasury Department was the first place I ever went in regard to this. I did not take any memoranda there, or if I did I lost it, and I merely made this to put in my pocket to jog my memory.

By Mr. SARGENT:

Q. Is there any other statement you wish to make?—A. No, sir; I do not know that I have any further statement to make.

Q. You said something in the charges about idiots and lunatics being in the asylum?—A. I did.

Q. Do you think it is not a proper place for them?—A. I never heard of idiots and lunatics being kept at a hospital, and going around like I have seen some of them here.

Q. Do you think they should be turned out?—A. I do not think anything at all.

Q. Are you not aware that they were the ones this hospital was originally organized for, and were named in the act of Congress as the ones that should be kept here?—A. I did not know that. I think the lunatic asylum is the place for them.

Q. That lunatic asylum is for those whose insanity occurs in the District. These persons came from contraband camps, &c., and elsewhere.—A. I thought the lunatic asylum was a government institution.

Q. But that is the distinction the law makes.—A. I never knew that before.

Q. Then the charges you make against the doctors of keeping lunatics and idiots here should be modified by that consideration, should they not?—A. Of course that modifies it a little, I suppose.

Q. Is there any other statement you want to make of any other kind?—A. If there is no other place these men could be sent to——

Q. It seems there is no other place.—A. These lunatics assault some people in the yard. They never assaulted me, because I was never out in the yard much.

Q. Is there any other statement you wish to make about anything?—A. Not as I know of.

Q. There is no other statement you wish to make now?—A. Not now.

By Mr. ALLISON:

Q. You say your business is that of a caterer?—A. Yes, sir; I have kept a restaurant.

Q. In this city?—A. Yes, sir.

Q. Where?—A. On E street, near the National Theater—about three or four doors from the theater.

Q. How did you get into this hospital?—A. I came here through the Secretary of the Interior.

Q. You applied to him for admission here?—A. No, I was sick; I did not go there myself at all.

Q. Were you carried here, and then application made for your admission?—A. They admitted me without any certificate at all, so far as that is concerned.

Q. You came right in here?—A. Yes, sir. I do not know who went and got the permission from the Interior Department.

Q. I do not care about details. Have you ever been in any other hospital?—A. No, sir; not to be a patient.

Q. And never have been in this until this time?—A. Never seen any of it until I came into it. I might have been inside the gate, or something like that, but I do not remember ever coming across the sill of the gate till now.

Q. Who was the counsel whom you consulted in getting up these charges?—A. Franklin E. Felton.

FRANKLIN E. FELTON (white) sworn and examined.

By Mr. SARGENT:

Question. How long have you been in this hospital?—Answer. I came here on the 16th of April last.

Q. Did you prepare the charges which Mr. Johnson signed?—A. I draughted them and he wrote them.

Q. Did he copy them?—A. Yes, sir.

By Mr. EATON:

Q. What is your profession?—A. Lawyer. I might as well add that I was acting at that time in the capacity of Mr. Johnson's counsel, as the complainant in this case.

By Mr. SARGENT:

Q. Were you then in the hospital?—A. I was.

Q. Have you received a fee from him?—A. No, sir; I never have received one cent for any service I have rendered in the matter of the whole investigation, nor do I ever expect to. On the contrary, I have paid for incidental expenses out of my own funds.

Q. Have you funds of your own?—A. Out of remittances I received.

Q. Do you receive remittances?—A. I receive sometimes trifling remittances to pay my wash-bills, and so forth.

Q. How much remittances do you receive?—A. Not regular.

Q. From whom do you receive them?—A. I receive them from my family.

Q. Is your family able to make remittances to you?—A. They are able to make remittances for my incidental expenses here.

Q. Who are your family?—A. What do you mean by that?

Q. You speak of your family; who are they; what is your family?—A. I have one brother living.

Q. Who is he?—A. Mr. Samuel M. Felton, of Philadelphia.

Q. What is his business?—A. He is the president of the Pennsylvania Steel Company, and he is connected with several railroad companies.

Q. A very wealthy man?—A. That I cannot say.

Q. Are you under the impression that he is?—A. That I do not know.

Q. He is aware that you are here in this hospital, is he?—A. O, yes.

Q. He is the one from whom you receive remittances, is he?—A. Yes, sir.

Q. You can make any statement of matters within your own knowledge in the hospital. Being a lawyer, you understand that.—A. I will. I came to this hospital on the 16th of April last. I came from Providence Hospital here. I was suffering at the time from paraplegia, or partial paralysis, which affected my lower limbs exclusively. I left Providence Hospital voluntarily, because I could not get there the services of a male nurse, which my disease actually and imperatively required, and therefore I came here where I could have the services of such a nurse, and I have found one that is very valuable and skillful.

Q. Who is that?—A. His name is Lucius Hawkins.

Q. Is he attentive about the ward to the patients generally?—A. Wonderfully so. He is the best nurse I have ever seen. He is in this ward. He is the best nurse, the most attentive and most skillful.

Q. Does he take care of the patients generally, or does he show favoritism to you?—A. He shows no favoritism at all. He does his duty faithfully. He comes here at six o'clock in the morning and leaves at six o'clock at night, and he never is idle, and he attends to every one faithfully, and to the utmost of his skill and ability.

Q. Do you know of his leaving patients for eighteen or twenty-four hours without going near them?—A. Never; not within my knowledge or experience, and, from my knowledge of the character of the man, I do not believe anything of the kind.

Q. You can proceed.—A. When I entered the hospital I was assigned to ward No. 1, which is the ward below here, under the charge of Dr. Glennan. The nurses there were a man by the name of Baer, and another one by the name of Street. I was given a bed in the middle section of the ward. A new mattress was brought from the big brick building and put on my bed. That night I was unable to sleep at all, as the bed-bugs literally swarmed over me; and in the morning I complained to the nurse Baer, and he seemed to treat it as a matter of indifference. I spoke of it to several of the patients, and they seemed to regard it as a joke, and said there was not a bed in the ward that was not filled with bed-bugs. I finally, by giving fifty cents to the nurse, got him to take away the old straw ticking, that was black and filthy, and looked as though it had been in use from time immemorial, and give me a new straw ticking. The blankets on the bed were old; they were filled with dust; they were full of holes. The bed-spread was ragged and dirty, and I do not think it had ever been washed, although it had evidently been in use for many years. And yet my bed, when I got the straw ticking upon it, was the best bed in the ward. There were cockroaches in the room, and there were lice on the patients, and the whole thing was repulsive and disgusting to me. The morning after I arrived, Street, the nurse, came to me with a basin and towel. I had seen him go to patients who were afflicted with scrofula, with syphilis, with ulcers, and other horrible diseases. They washed in this basin and wiped on the towel. I positively refused to use either the basin or the

towel. I then asked Baer if I could not have a towel, and he said no, but there was a towel that hung up for the use of all the patients that were able to be out of bed, and I could use that. I looked at it, and it was as black as a piece of charcoal. I said, "I cannot use that," and went out into the bath-room and washed my face and hands under the spigot, and wiped them upon my handkerchief.

By Mr. ALLISON:

Q. Was this nurse a colored man?—A. All these nurses here are colored.

By Mr. SARGENT:

Q. Proceed.—A. In the ward there were two patients that were literally rotten with syphilis. They presented the most repulsive aspect I have ever seen. One of them was named Jackson. He has since died—died of that horrible disease, a mere mass of putrefaction. At that time he had a hole eaten through his skull, through his forehead, over his eye, so that you could see the brain. There were other holes eaten in his skull. His left hand, I think it was, was so affected that it hung in this way [indicating], as I learned, the disease having eaten through the wrist joint. His whole body was covered with a mass of sores and he was bedridden, and if he required to be moved it took two or three persons a long while to move him, and they had to handle him with the utmost care. The other man's name is Anderson. I think he is here now, or he was the last I heard. He was at that time bedridden. He was also covered with sores, and he had no hair on his head. Every day I noticed that they used to bind him in an oil-sheet, as it appeared to me. Since I left the ward the man has so far recovered as to be out of bed, and if he is here now, you will see him moving along on his posteriors, propelling himself by his hands.

Q. Why take this time in describing these diseases? Of course we understand this is a hospital, and men are brought here with dreadful diseases.—A. Then I will proceed. There was another man there named Saunders, who was completely paralyzed. He was bedridden, and he had no control over his bowels. That man used to be allowed to lie in his filth from six o'clock in the night until nine o'clock the next morning. Food of the coarsest kind was carried to his bed three times a day and placed by his bedside. He was unable to eat it. The nurse oftentimes did not feed him. The man was utterly neglected, and he died. One of the patients, John A. Parker, who is now at the Soldiers' Home at Augusta, wrote a letter, which I saw——

Q. No matter about what letters you saw. State what you know of your own knowledge.—A. Very well. I state that. I saw the letter.

Q. Of course it is not evidence.—A. It is at the Interior Department, and, if you wish, you can have it. What is your object; to get as much information as possible?

Q. Our object is to have each patient state what he knows of his own knowledge. We will call for the letter, and it will speak for itself.—A. I stated that I saw the letter, which was a fact. As a lawyer, I state that that is a fact. The contents of the letter, of course, I am not at liberty to state; but I tell you, gentlemen, where the letter is, or where it was sent.

Mr. EATON. It is proper that you should state that a letter was written containing certain specific charges, and that that letter is to be found in such a place.—A. That was all I proposed to state. Now, in regard to the food, I simply state in regard to the food that was fur-

nished myself, of course. The meat that was furnished me was of two descriptions; it was fresh and salt. The fresh meat was to a very great extent composed of beef's cheeks and tongues cut up together; of necks, of hearts, and of shins. That meat was very often tainted, and I repeatedly complained to the nurses, and oftentimes one of the nurses would take that meat over to the kitchen and exchange it for other. Sometimes he would not. Within three weeks I was furnished with tainted meat nine times, and I complained to the nurse, M'r Street, and asked him to bring the matter to the attention of Dr. Glennan, which he declined to do. Finally I did. I told Dr. Glennan of it, and, as the result, I was put on what might be called starvation diet. I was continued on that until I lost my appetite. I could not eat the food, and I wrote a letter complaining of that fact and the condition of the food to Dr. Palmer, and the food was somewhat improved, although it was not nearly so good as it is at the present time. The salt meat consisted of salt pork, which was fat, which was yellow, and which was repulsive both to the sight and to the smell. The salt beef was as hard as paving-stones and as salt as salt could make it, and very old, evidently. The fish was salt mackerel, very old and very rotten. That I could not eat.

In regard to the water-closet, there was no urinal in it, and it was in the most filthy condition of any place I have ever seen. The floor was covered with filth, with urine, with excrements. The nurses washed their night-buckets and their bed-urinals and the cups used by consumptive patients, in the bath-tub.

Q. (By Mr. SARGENT.) Did you see that?—A. I did; often.

Q. What nurses were those?—A. The nurses of ward No. 1, and I spoke to them about it. I mentioned it.

Q. To what ones did you mention it?—A. To the nurses of ward No. 1. I saw them do it, and I saw them empty slops out of the windows of the wards also. The patients were obliged to get up, if they required to urinate in the night, and go from their beds out to the water-closet; and there was no light there, and they were obliged to use the privy, and the result was that the privy-seat and floor surrounding it was completely saturated with filth, and I have seen the floor, I should suppose, from an inch and a half to two inches deep with this horrible filth; and that I complained of repeatedly, but no attention was paid to my complaints.

By Mr. EATON:

Q. Two inches deep?—A. I should suppose so. I have seen it stand in a pool all over the floor. Once myself I went in there and I fell down at full length on my back; my coat was completely drenched with it and my clothes also.

By Mr. SARGENT:

Q. With excrement?—A. No, sir; with urine, slops, &c. They would go to the privy to urinate there, and the urine would scatter over in places and on the floor, and besides that the night-buckets were all emptied down this privy-hole, and a great portion of their contents would be scattered over the floor; and on one or two occasions (perhaps the occasion I refer to when there was so much water on the floor) I think one of the pipes—in fact I know one of the pipes had burst and had washed all this filth together with water on to the floor, and there it stood in a pool all over the floor when I fell down in it.

By Mr. EATON:

Q. How long did it stand there?—A. This was in the evening about

6 o'clock, about dusk, when I went in, and it was there until the nurses cleaned up the next morning. They always cleaned up the bath-room and water-closet for the visit of the doctor, which was about ten o'clock in the morning. The consumptive and asthmatic patients were so very bad down there, they disturbed me so much that I was unable to sleep, and I asked permission of the doctor to be removed from that ward. He granted me that permission and I came up here.

Q. When did you come here?—A. That I would not be able to say, but I think I was in the lower ward, ward No. 1, about two months. That would bring me up here some time in June, I should judge; I am not positive. I came up here. My poor diet continued up here until I wrote to Dr. Palmer, and he had the diet changed. The water-closet here was in a very bad condition, and the beds and bedding were in about the same condition as down-stairs, although the nurses here in this ward pay very much more attention to this ward than they did down stairs, were much more cleanly. On one occasion the engineer had occasion, I think, to repair the privy and the water-closet, and it was left torn to pieces for the space of three weeks, and the patients were unable to use it. The result was that night-buckets, both day and night, used to be in this entry and also in the bath-room, and our ward was filled with the stench whenever the door was opened. The patients were put to very great inconvenience, and finally, as I could get no redress from the nurses, to whom I most frequently complained of the condition of the water-closet, I wrote a letter to Dr. Palmer, and in the course of a week that water-closet was put in order.

By Mr. SARGENT:

Q. Did they commence putting the water-closet in order the day after the letter was received?—A. I wrote the letter on Saturday to Dr. Palmer, and he came down that same morning with the engineer, Mr. Calvert, and went into the water-closet. What was done I do not know.

Q. Did they go to work the next morning to fix it up?—A. The next morning was Sunday.

Q. Did they go to work the first working-day to fix it up?—A. I know that Mr. Calvert was at work here the following week.

Q. Do you know of Dr. Palmer being absent during the time the engineer was so neglecting his duty there?—A. That was in the month of August. My impression is that Dr. Palmer was absent during that month, or a part of that month. I am not quite confident. But the condition of the water-closet was always bad.

Q. Is it bad now?—A. No, sir; it is not.

Q. What has been done with the water-closet since the engineer repaired it?—A. I requested Dr. Palmer to have a urinal put in the closet, and informed him that unless a urinal was put there it would be impossible to keep the water-closet and the bath-room clean, and there has been a urinal put there for the first time since this building has been put up.

Q. Were you in the building before you came here as a patient?—A. No, sir.

Q. How do you know it was for the first time?—A. I made an examination, and I found from the appearance of the room that there had never been one there, and I also made inquiries of Lucius Hawkins, the nurse, who has been here ever since the building was put up.

Q. Are you now testifying by hearsay?—A. No, sir; as I told you, I made an examination of the water-closet. I have satisfied myself that there never was a urinal in that water-closet until this one was put up.

Q. When was this one put up?—A. It must have been in August last, to the best of my recollection.

Q. That was before any of these charges were filed in the Interior Department, was it not?—A. Those charges were filed in August.

Q. Was it before that or after?—A. If I am not mistaken, it was the very day.

Q. On what day of the month?—A. The 30th, I think, the charges were filed. You will understand, gentlemen, about these dates.

Q. You say the urinal was put up on the 30th of August?—A. I say to the best of my recollection. I did not say it was put up then. I told you that it required about a week to repair that water-closet and to put it in order. It took about a week to make the repairs necessary, because the privy was all torn to pieces. That had to be put in order, and then the urinal had to be put up besides.

By Mr. EATON:

Q. It was all done, if it was done, in August, before these charges were filed?—A. You will understand me to say that my letter was written, if I am not mistaken, to Dr. Palmer on the very day that these charges were filed, and it took a week afterward to put the water-closet and bath-room in order.

By Mr. SARGENT:

Q. So it was some time in September that the urinal was put up?—A. I do not know.

By Mr. ALLISON:

Q. If I understand the witness correctly, he notified Dr. Palmer of these troubles?—A. Yes, sir.

Q. And they were immediately remedied?—A. The engineer immediately went to work; yes, sir. So far as the dates are concerned, I wish you to understand I do not bear them in mind.

By Mr. SARGENT:

Q. Is there any other subject you wish to speak of?—A. There is another thing. I was asked about Dr. Palmer's absence. Dr. Palmer should have known the condition of the water-closet, and would if he had attended to his duty properly. Every Saturday it is customary for the medical corps to make an inspection, as they call it, of the hospital premises. If Dr. Palmer had examined, on those inspections, the condition of the water-closet and bath-room, he would have seen its filthy condition, and he would have seen also that the room could not be kept clean without the urinal. But the inspections of Saturday were the most perfect sham and farce I have ever known. The three doctors would come, for instance, into this building. They would pass through the entry down-stairs into ward No. 1 at one door, go directly through, pass out of the back door, go up the back stairway, come into ward No. 2 by the back entrance, pass directly through, make their exit at this front door and go directly down-stairs without ever going near the bath-room and water-closet.

By Mr. EATON:

Q. You tell what you know now?—A. I have seen it over and over again.

By Mr. SARGENT:

Q. You say they never made any inspection of the water-closets?—A. I have seen them and they never did. I have stationed myself in this

entry, here, for the express purpose of seeing whether they did or not, and until these charges were filed I never saw them go into the water-closet—never.

Q. Is there any other subject you wish to speak of?—A. Yes, sir; I wish to speak about some other subjects. I wish to speak about the improvements that have been made here recently, and that have been made in consequence of the charges and this investigation. I have jotted down hastily the improvements that have been recently introduced, and I mean to tell you, gentlemen, that the hospital to-day is no more like in its condition, and in the treatment of its patients, what it was prior to the filing of these charges than it is like the poorest almshouse in the country.

Q. You can state from your own knowledge.—A. I should like to refresh my memory.

Mr. SARGENT. File the document if you wish and we will print it.

The WITNESS. Very well. (Reading:) "Improvements recently made in the Freedmen's Hospital through the exposure of abuses and demand for reforms made by patients."

By Mr. ALLISON:

Q. Is that your own writing?—A. Yes, sir.

Q. Do you go into matters in detail?—A. I do. I should like to read this.

Mr. SARGENT. We will put it right in.

Mr. EATON. And have it printed.

The WITNESS. Then you do not desire that I should read it?

Mr. SARGENT. It is not necessary, for we want to take the testimony with rapidity.

The WITNESS. Very well.

The paper is as follows:

Improvements recently made in the Freedmen's Hospital through the exposure of abuses and demands for reforms made by patients.

First. The food at present supplied the patients is of better quality, more abundant, and better cooked than formerly, although it is not even now fit for invalids.

Second. New mattresses, pillows, blankets, bed-spreads, chairs, dining-table, patients' utensils, and electrical machine have recently been supplied, and painting been done in the bath-rooms and water-closets.

Third. Stationary urinals have been stationed in the water-closets of the male wards, where they were never placed before, and without which the water-closets cannot be kept clean, but are unfit for use and so offensive to the senses as to become insufferable nuisances, detrimental to the health and comfort of the patients.

Fourth. The medical treatment of the patients has been vastly improved, greater interest is evinced for the patients, and they are treated with greater respect than formerly, and the attending physicians now labor to promote their welfare and restore them to health, which was not the case prior to the late investigation.

Fifth. Clothing is much more freely distributed to the patients than heretofore, and the patients are now for the most part decently clad, in marked contrast to their former dirty and ragged appearance.

Sixth. The students' table has been substantially broken up, and instead of eleven students being fed out of the hospital appropriation, as was the case during the last session of the Howard Medical College, only a few medical students are now boarded at the hospital, and they, it is claimed, work for their board.

Seventh. The practice of using the dead bodies of patients as subjects for dissection in the Howard Medical College has been substantially, if not wholly, broken up, and the burial of human remains in the hospital-yard has been discontinued since complaint of this outrage was made to the police authorities, and they exhumed a human corpse in the hospital inclosure near the wards.

Eighth. The condition of the wards and the apparel of the patients have lately been so much improved, that persons visiting the hospital at the present time could form no correct idea of its condition and the treatment of its inmates prior to the late investigation, while

the patients are now better fed, clad, lodged, and treated than formerly. The appropriation for the current year is $5,000 less than for last year, and the medical corps ought to explain what became of that surplus money. Dr. Palmer emphatically asserted publicly to the patients that he always had paid the highest market-rates for all hospital supplies, so that the present low rates of provisions cannot account for the improved condition of the hospital and the better fare supplied the patients.

The WITNESS. I have prepared another paper, which I should like also to have printed: "Improvements required to make the Freedmen's Hospital a proper sanitary institution, and which can be made within the limits of the appropriation."

Q. (By Mr. Allison.) Does that contain your own suggestions?—A. Yes, sir.

Mr. ALLISON. Very well; we will receive that paper also.

The paper is as follows:

Improvements required to make the Freedmen's Hospital a proper sanitary institution, and which can be made within the limits of the appropriation.

First. More, better, and well-cooked food should be supplied the inmates, and the bread, meat, butter, and fish should be of much better quality than is now furnished. The supper, especially, should be improved and the patients be no longer compelled to subsist for seventeen hours on stale bread and weak tea.

Second. A constant supply of disinfectants should be provided for each ward, and the nurses should be required to deodorize the invalids' utensils which are now never purified, but are extremely offensive to sight and sense.

Third. Each sick-ward should have the exclusive services of a night nurse to attend on the invalids requiring attention during the night.

Fourth. India-rubber blankets in sufficient quantity should be provided to secure the beds and bedding from defilement by bed-ridden patients.

Fifth. Purer milk should be procured for the hospital than is now supplied, and the institution should keep its own cows, which can be done at slight expense.

Sixth. All hospital supplies should be purchased by contract as far as practicable, and on delivery should be rigidly inspected by a competent person, and if below the proper standard should be rejected.

Seventh. The mattresses and pillows should be remade by a competent upholsterer and be adapted to the comfortable use of invalids, and be so fabricated as to prevent the production of bed-sore on their occupants.

Seventh. The hospital should forthwith and wholly be dissevered from any connection with the Howard Medical College, and be conducted as an independent government institution. Especially should the dead bodies of patients be no longer supplied the Medical College as subjects for dissection, nor be buried in the hospital-yard.

Eighth. Medical students and inexperienced persons should not henceforth be employed in the hospital dispensary to compound medicines for the patients, which requires practical skill and experience.

Ninth. Patients afflicted with infectious or loathsome diseases or pulmonary complaints should be isolated from the rest in some of the numerous apartments which are in the hospital buildings, and which are now used for the most part by persons comparatively or wholly well.

Tenth. Curtains should be put up at all the ward-windows to protect invalids from the glare of the sun and shut out draughts of cold air, which endanger the health of the patients.

Eleventh. Lunatics, idiots, blind persons, paupers, and children of sufficient age, should be immediately sent away from the hospital to such institutions as are especially designed for the reception and care of persons of their respective classes.

Twelfth. Better clothing should be given the patients, who should be comfortably and cleanly clad.

Thirteenth. Efficient means should be employed to exterminate the vermin that infest the wards and the bodies and clothing of inmates, who now suffer severely from these pests.

Fourteenth. The physicians should exercise a careful supervision of the nurses, for which purpose they should visit the wards several times daily and inspect their condition.

Fifteenth. Utensils and appliances required by the invalids should be provided in larger quantity and of better quality than at present.

Sixteenth. The floors of the wards should be waxed, as is the case in well-regulated hospitals, instead of being scrubbed twice a week and drenched with water, which practice is especially detrimental to the inmates, who become suddenly chilled by stepping from warm beds on to damp floors, which is liable to produce chills and fevers and aggravate their existing diseases.

Seventeenth. All reasonable means should be used to secure the comfort, safety, and wel-

fare of the patients, and promote their convalescence. Especially should they be treated with respect and consideration by the managers and employés as being the beneficiaries of the American people, and not be stigmatized as paupers or irresponsible persons, as has been the custom heretofore.

Thus improved, the hospital would become a sanitary home for the sick and homeless, a credit to the spirit of humanity that actuates our countrymen, and an honor to the nation.

The sum of eighteen thousand dollars is appropriated for subsistence for the current year, and a separate appropriation is made for fuel, and another for cooks to prepare the food for the table. These funds are ample to provide excellent meals for all the inmates of the institution, and experienced caterers assert that it does not cost so much to feed an equal number of guests at a first-class hotel.

The meals even now supplied the ward patients are, at least, very indifferent in quality and poorly cooked, while the meals served the mess-room patients are barely sufficient to support life, and do not exceed in cost nine cents per capita a day, as is susceptible of conclusive proof.

Dr. Palmer, in his last report on the hospital, asserts that the appropriation for the current year of "$2,500 for medicines and medical supplies is 50 per cent. above the amount ever used for that purpose," whence it appears that there is no justification whatever for his failure to provide all utensils and appliances requisite for the care and treatment of medical and surgical cases.

Eighteenth. A competent person should be appointed as chaplain, who would properly attend to his duties, else the office of chaplain should be abolished as a mere sinecure. Under present arrangements, two students of the theological school of Howard University are nominally chaplain and assistant chaplain. Neither of them has ever visited ward No. 1 or 2 more than once during their term of office—neither of them has visited the sick in those wards or administered religious instruction or consolation to the dying, nor written letters for any of those patients, or performed any service whatever for them. The only duty they perform consists of a short service in the chapel twice a week in the presence of a few persons. These theological students are manifestly employed for the purpose of affording them the means of support out of the hospital appropriation while they are acquiring their profession at the Howard University.

By Mr. SARGENT:

Q. Do these documents cover the ground you wish to go over?—A. No; there are a number of other matters I should like to refer to. I want to say that there was a very great abuse, which we have exposed, and which I hope is remedied, and that is the bringing of corpses and bringing human fragments from the dissecting-room of the college and burying them here in the hospital-yard in dangerous proximity to the wards. That has been done, and the police authorities of the city——

By Mr. EATON:

Q. Wait. Have you seen that done?—A. I have seen them exhumed.

By Mr. SARGENT:

Q. Did you see exhumed?—A. No; let me say, gentlemen——

Mr. EATON. Wait one moment. My attention was directed to this yesterday by the Secretary of the Interior, and, therefore, I want to know if you have seen it, not if you have heard it.—A. I want to say this, that I made the complaint to the police authorities. In regard to that I will give the name of Lieutenant Johnson of the police, the lieutenant of this district, and Mr. John Calvert, who can give you information on that subject, and Wesley Lucas also. Those three witnesses I should like to have examined. Calvert is the engineer; Lucas is connected with the hospital.

Q. (By Mr. EATON.) Was not Mr. Patterson, the coroner, here?—A. I would not give him.

By Mr. SARGENT:

Q. Why not? He was here.—A. He was here. Well, I was not satisfied with his action. I thought he wanted to cover up the transaction as well as to cover up the body.

Q. Was there any body found?—A. Yes, sir; so I understood.

Q. A whole body?—A. I was not there.

Q. But you understand that a whole body was found?—A. I understand; but this is not testimony.

Q. Do you understand that there was a whole body and that there was more than a single instance, and that it was anything more than a fragment left by a student for the purpose of macerating it?—A. I shall be very happy to give my understanding, although I do not consider it more than hearsay.

By Mr. ALLISON:

Q. It may lead us.—A. I should like to give you the information. I understand that when Lieutenant Johnson——

By Mr. EATON:

Q. From whom do you understand?—A. From Mr. John J. Calvert, from Mr. Robert T. Johnson, from Mr. Daniel Potter.

Q. Who is Robert T. Johnson?—A. The man in here.

Q. He was not there, was he?—A He told me he was there when the body was exhumed. So he told me. He came right in here and told me. I will give you then the statement. The statement made to me was that a human body in a state of green putrefaction was found in almost an entirely new sack out here by the dead-house; that it was dug up by Charles Banks, the janitor of the Medical College building, by command of Lieutenant Johnson; that Dr. Palmer, the coroner, the health-officer, Lieutenant Johnson, and another police-officer, with the engineer and some patients, were present; that the body was terribly offensive and had evidently been recently buried; that both feet were cut off, and that the upper part of the body or head was slashed; that Lieutenant Johnson ordered the body to be covered up with dirt and said he would attend to the matter; that that night the body was exhumed by Charles Banks and carried into the hospital dead-house; and that the next day Charles Banks, with assistants, dug over several spots here in the hospital-yard and found a very large number of bones, which also were carried into the dead-house. I am simply giving you the statement made to me at the time.

Q. By Johnson?—A. No, sir; by the engineer, Mr. Calvert, and by Mr. Potter. Mr. Johnson told me about the finding of the body.

By Mr. SARGENT:

Q. Lieutenant Johnson?—A. No; Robert T. Johnson.

Q. Lieutenant Johnson knows about this thing and you give him as a witness?—A. The witnesses I give you are Lieutenant Johnson, of the police, John J. Calvert, the engineer, Wesley Lucas, Robert T. Johnson, and Daniel Potter.

Q. Who is Daniel Potter?—A. A patient here.

Q. In which ward?—A. In Hurd's ward, if I am not mistaken.

Q. What number?—A. I do not know the number. It is in the building near here.

Now, I do not think of anything else, gentlemen, but if you have any questions to ask, I shall answer them.

ROBERT T. JOHNSON recalled.

By Mr. SARGENT:

Q. Were you present at the time when any bodies were dug up in the hospital-yard?—A. I was.

Q. Where was that; at what place on the premises?—A. Right over

there (pointing southward through a window), between here and the next building, in that yard.

Q. What was dug up?—A. A corpse.

Q. A whole corpse?—A. I do not say it was a whole corpse; but I saw the head and chest part of it, and I am satisfied I saw down to the lungs. It stank, and I turned around and walked away.

Q. What was it in?—A. In a bag.

Q. A whole head and breast?—A. Yes, sir.

Q. A whole body?—A. I saw the head and breast, as I have said. The man who was digging it up had buried it, and he seemed to be digging it up so as to separate the head from the body.

Q. Who was that man?—A. Charles Banks. The police lieutenant said to him, "You are cutting the head off; do not do that." He told him to take it up the way he put it in. The lieutenant said, "You know where you put it, and you must dig it up as you put it in, and I am going to stay here if it takes all night." He did dig along until he got it.

Q. Who is Charles Banks?—A. A man who works over in the hospital department. He dug and got this head. Somebody said to the lieutenant, "That man has got the head off it, and he will not cover it."

Q. If it was in a bag how could the head be separated?—A. It was not sewed up in the bag; the bag had been simply put around it. I know part of it was inclosed and the other part was not inclosed. When I first saw the head Banks was digging down between it and the body. The lieutenant said, "You are cutting the head off; you are standing over the body; get off it." The man stepped aside, and went on digging until the bag commenced coming up. The lieutenant said, "Take it up." It was only a short distance below the ground. He just pulled it right up. I looked at it; it smelt very bad, and I turned off and walked away.

By Mr. EATON:

Q. Did you see the arms?—A. I am not sure about that. I am sure I saw the head and chest and part of the legs, but am not sure that I saw the arms. I did not see the legs down to the feet.

By Mr. SARGENT:

Q. Do you know of any other such case?—A. No; I did not want to see any more.

Q. Do you know of any other being there yourself?—A. I did not go to see any more.

Q. You do not know of any more?—A. I did not see any more. They dug up some, I believe, but I did not go to look at them. That was enough for me.

Q. What man told you of more?—A. The man who buried them there.

Q. Who was the man that buried them there?—A. I do not remember his name.

By Mr. ALLISON:

Q. Was it Wesley Lucas?—A. That is the man. Other men told me they saw bodies dug up and a whole parcel of bones besides.

THURSDAY, *February* 14, 1878.

The subcommittee met at the room of the Committee on Appropriations.

Dr. D. C. PATTERSON sworn and examined.

By Mr. SARGENT:

Question. What office do you hold in the District of Columbia?—Answer. Coroner of the District of Columbia.

Q. How long have you been coroner?—A. Since 1872.

Q. Do you remember being called in an official capacity to the Freedmen's Hospital to examine with reference to some human remains exhumed there?—A. Yes, sir.

Q. State all about it.—A. It was on or about the 16th of November, 1877; I have some pencil notes taken at the time. I was summoned by Lieutenant Johnson to call at the station-house. I did so, and there I found a letter from a Mr. Felton of the Freedmen's Hospital, in which he stated that some human remains had been buried near the ward, as I understood from the letter, in which he was, and that it was offensive and that there were possible suspicions of foul play—at all events that the matter needed investigation, and stated that a man employed at the hospital by the name of Banks could give me information in regard to it.

Q. Have you that letter now?—A. I have not. It was a letter directed to Lieutenant Johnson, and he kept it, I believe.

[Lieutenant Johnson produced a letter which was handed to and examined by the subcommittee.]

Q. Is this the letter [handing the letter to the witness]?—A. [After examining.] I should think it was.

Q. Just read the letter.—A. It is in these words:

FREEDMEN'S HOSPITAL, *Nov.* 15, 1877.

Lieutenant JOHNSON,
Metropolitan Police.

SIR: I hereby complain of the recent burials of human remains on the hospital premises in dangerous proximity to the ward of which I am an inmate, and which has created a nuisance prejudicial to life and health. These burials have been made without the requisite permits and are consequently unlawful, and the offenders are liable to criminal presentation and punishment. These interments, moreover, are attended with such suspicions of foul play as to imperatively demand investigation to determine whether a homicide has been committed, the name of the victim, and the perpetrators of the crime, who ought to be forthwith arrested and brought to trial.

I will give you all requisite particulars to enable you to disinter the remains if you will call on me at ward No. 2 at the hospital.

Yours,

FRANKLIN E. FELTON.

I was under the impression at the time that in the letter Mr. Banks' name was given, but that, I presume, I learned at the hospital afterward. I found Mr. Banks, who was an employé of the hospital, and he said that something like a year before he had been asked to bury some bones for a medical student, and that he had done so in that vicinity; that that morning or the morning before, perhaps the morning before, just before daylight, he attempted to dig up those bones, but light coming on, the attention of the people from the ward was attracted, and he was not able to find them at once, and abandoned it. We then set him to digging, and very soon he disinterred these remains. There was a head, a spinal column, a thorax, and a pelvis of a human being, the integument and muscles all removed, and nothing but bone left, except such small particles of muscular matter as were left from the dissecting.

Supposing at the time, as I now suppose, that they were the work of the medical students, and had been buried there for the purpose of cleaning the bones, I took no further action in the matter. They were turned over to the health-officer for burial, or such disposal as he thought necessary, and the health-officer, if my memory serves me, at that time ordered them to left in the dead-house until he reported the matter to the Board of Health.

By Mr. EATON:

Q. Who was the health-officer?—A. Dr. Keene.

By Mr. SARGENT:

Q. Is that the ordinary method of cleaning a skeleton to be preserved by students?—A. Yes, sir. That is the ordinary method, perhaps, where they are not in the immediate vicinity of water. They are frequently sunk in water in a box and macerated there.

Q. How far below the surface was this part of the skeleton?—A. I should think not more than a foot. It was inclosed in a sack; but not more than a foot or eighteen inches from the surface at the outside.

Q. Was there any offensive smell?—A. There was no offensive odor from these bones. I did not get down to examine them closely; but standing near, there was no odor from them.

Q. Were any other bones found?—A. No, sir; none except these. The way I accounted for a portion of a skeleton being there was that it is the custom of medical students in their dissections to dissect by classes of four or five in a class. They usually cast lots for the different portions of the subject for dissection, sometimes one drawing an arm and another a leg, &c., and when they get through it they divide these remains among them.

Q. For what purpose do they preserve them?—A. For purposes of study afterwards. I think almost all medical students, if they can, preserve a skeleton when they are young and enthusiastic on the subject of bones.

Q. Did you make any report upon the matter?—A. No, sir. I made these notes, but no report except these at the time [exhibiting memoranda]. They are in pencil. I do not know that you can read them. They are not signed either. [Handing paper memoranda.]

Q. Have you any objection to these notes going into the record?—A. Not if they are legible enough so that the committee can read them.

Q. The paper is in a very good hand and well written. You can read it?—A. It is—

NOVEMBER 16, 1877.

This afternoon, in compliance with a notice through Lieutenant Johnson, I called at the second precinct station-house, when the lieutenant showed me a letter from Mr. Felton, in which he charged that a human body had been privately buried near the hospital, and that Charles Banks—

I do not understand how I mixed up Charles Banks there. My attention must have been called to him by the lieutenant or some one at the time—

could give information concerning it. I immediately proceeded to investigate the matter. Finding Banks, I was informed that about a year before he had, at the request of a medical student, buried some bones near the dead-house; that the student had lately "asked him to dig them up for her";—

I remember that he said it was a female student that owned them—

that this morning before light he had proceeded to the place to do so, dug a little while, but did not find them. Daylight coming on he was obliged to suspend operations, because of their discovery by some of the patients in the ward. Banks was then put to work and

soon exhumed a sack in which was the head and thorax of a human being, the soft parts having been removed. The legs and arms were wanting to complete the skeleton. There was no offensive odor from the bones, which were turned over to the health-officer, and then placed in the dead-house to await the action of the Board of Health. It was believed that these bones were buried for the purpose of cleaning them from the little bits of muscle after dissection. No inquest was deemed necessary.

Q. Do you know what is the process of burials in the case of death occurring at the hospital?—A. I was one of the pysicians in attendance at that hospital several years ago. At that time the permit was obtained the same as it is now.

Q. Obtained from whom?—A. From the board of health, and the interments were made just as they are now.

Q. Is that still done?—A. I suppose it is. I have not had anything to do with the hospital for some years.

Q. Is there any other statement you wish to make in reference to the matter?—A. No, sir.

Dr. P. T. KEENE sworn and examined.

By Mr. SARGENT:

Question. What position do you hold under the District government?—Answer. Health officer of the District of Columbia.

Q. How long have you been such?—A. Four years.

Q. Were you in November last at the Freedmen's Hospital in connection with the incident related by the previous witness?—A. I was.

Q. State all you know of the matter.—A. I have brought me with a communication bearing upon the subject, which was addressed by Franklin E. Felton to Lieutanant Johnson of the Metropolitan police.

Q. The same one which has been read here?—A. I was not present when that was read. That was referred by the lieutenant to me. It seems to be a copy (examining). I see, by looking at it, it is a copy of the same communication. This was referred to me personally by the lieutenant of police, who came to see me in relation to it, and I went with him or went out almost immediately to the place indicated by Mr. Felton, and met there Lieutenant Johnson and the coroner, Dr. Patterson, and we, after inquiring of Mr. Felton as to the nature of the complaint in regard to the burying of bodies, found this man Banks, who had charge of the dissecting-room as we understood, and after questioning him pretty closely, we were led to believe that some bones had been buried in a locality very near the dead-house, I think it was, and, after some persuasion, he was induced to commence digging at that locality, and succeeded in finding a bag containing some bones, a portion of a human body, which had been buried. My jurisdiction over the matter extended to the discovery whether there was a nuisance injurious to health on the premises. I found that the bones were not offensive, and for that reason took no official action, except that I referred the communication which was addressed to me to the board of health, in this language:

Respectfully referred to the honorable board of health for action as to any transgression of the regulations governing vital statistics. The question of nuisance injurious to health I will personally investigate and report upon.

This communication was referred by the board to the registrar of vital statistics, who has charge of the granting of permits for the burial of bodies.

Q. What is his name?—A. Dr. D. W. Bliss. When a person dies within the limits of the District of Columbia, a reputable physician certifies to the cause of death on a given blank. That certificate is brought

to the register of vital statistics, and upon it is issued a permit which entitles the body to enter the cemetery; and no body can be buried in any cemetery in the District of Columbia without such a permit. The register referred the communication "to G. S. Palmer, M. D., surgeon in charge of Freedmen's Hospital for report," and he returned it with this report:

FREEDMEN'S HOSPITAL,
Washington, November 23, 1877.

Respectfully returned to the honorable registrar, board of health, with a statement that no human bodies have ever been buried in the grounds of this hospital. After careful investigation, I found that some bones, parts of skeletons, had been placed in the grounds last year, without my knowledge, by some medical students for the purpose of cleaning them. The bodies from which these bones were detached were buried under legal and proper permission from the board of health. The bones are all removed. No effluvia or nuisance connected with them has ever existed.

G. S. PALMER,
Surgeon in charge."

Q. Did you find any effluvia or anything dangerous to health in the deposit which you found there?—A. No, sir.

Q. You are a doctor yourself?—A. Yes, sir.

Q. Do you know anything about the habit of medical students in regard to the acquisition of skeletons and preserving them or cleaning them?—A. I know that they are very anxious always to get possession of bones, and sometimes keep them detached, at other times wire them together into a skeleton, for study.

By Mr. EATON:

Q. It is necessary that a certain process, either by water or the earth, should be gone through, I suppose, in order to macerate them?—A. Yes, sir; in order to free them entirely of the portions of muscle and tissue that attach to them. There are different processes. Some quicker process might be resorted to.

By Mr. SARGENT:

Q. Were these bones probably what were left after a proper dissection?—A. They appeared to be so.

Q. Have you stated what the bones consisted of that you saw there?—A. There were the bones of the trunk, as far as I remember, with a portion of the head. I think the top part of the head, the skull, had been taken off. There was the lower portion of the skull, I think, with the bones of the trunk.

Q. Is the top part of the head taken off sometimes in the process of dissection?—A. Yes, sir; in order to take out the brain; sawed longitudinally.

Q. There was no suspicion of foul play in that case so far as anything you saw indicated?—A. No, sir.

JAMES JOHNSON sworn and examined.

By Mr. SARGENT:

Question. What office do you hold under the District government?—Answer. I am lieutenant of the Metropolitan police.

Q. How long have you been acting in that capacity?—A. Since 1861.

Q. You are the officer referred to by the previous witness as having received a communication from Mr. Felton?—A. Yes, sir.

Q. Were you present at the time these bones were dug up?—A. I was.

Q. State what you saw there.—A. The bag was dug up by the man spoken of. After the complaint of that letter now by your side, attention was called to it. On taking the letter to Major Richards, my superior officer, he ordered me to go after the coroner and health officer, take them there and see what it was. I did so; I took them there, caused the bag to be dug up, and found the remains of the dissecting-room. Not being a practical man in such things, I cannot tell you much about that.

Q. Did you notice whether there was any effluvia or smell about it?—A. There was considerable to me. I, perhaps, was at the windward where the wind blew to me. The doctors kept on the other side.

Q. Was there much flesh upon the bones?—A. No; I do not think it was flesh, but there was some matter, I think; I did not examine very closely. I thought my part was done when I handed it to the proper officer.

Q. Did Mr. Banks show any reluctance to digging it up?—A. He did. He did not appear to want to dig at the place first. I had to go and put my foot on the place where it was, and finally he did dig it up.

Q. Do you know what position Mr. Banks held at the hospital?—A. I cannot say, only what he said himself. When I first saw Mr. Banks I spoke to him and asked him where the place of this burial was. He took me around four or five places and showed me where they had been burying. They had been burying there for some time, he said. We did not undo any but one.

Q. Did he say at whose request he buried this piece of skeleton?—A. I did not ask him.

Q. What was in the sack?—A. There were portions of a human body; I did not examine closely and cannot tell you how much. I remember seeing a head sawed around (indicating), part of it off, part of the lower part, I think, but really I cannot tell you because I did not take much notice of it.

A. Did you observe whether there was a trunk or not?—A. I did not particularly; it was a bag quite full.

Q. Was the bag tied up wrapped?—A. Tied up, so that the pick tore it open.

Q. Is there any other statement you wish to make about it?—A. None, sir; further than that the chief doctor there said he did not know they were buried; he would have them all attended to to-morrow, and everything should be cleared up; all the places dug up that were said to have anything, and he would have it all attended to.

By Mr. EATON:

Q. Has any other complaint been made to your quarters since?—A. No particular complaint; only rumors.

CHARLES BANKS sworn and examined.

By Mr. SARGENT:

Question. Are you connected with the Howard University or the Freedmen's Hospital?—Answer. The Freedmen's Hospital.

Q. For how long have you been?—A. For a little over eight years.

Q. Did you bury the bones to which reference has been made by the previous witness?—A. Yes, sir.

Q. At whose request?—A. Mr. Stagg's.

Q. Who is Mr. Stagg?—A. A white student there. There he is, right over there. [Pointing to a person.]

Q. A white student of the university?—A. He is a medical student.

Q. At what time did you bury them?—A. I do not recollect exactly what time it was; that is, the day; but it was some time last winter. I cannot recollect exactly what date it was.

Q. When they were dug up in November, then, they had been there about three-quarters of a year?—A. Those were buried there in the course of lectures before this; so you can judge yourself. I do not recollect the exact date.

Q. Did Dr. Palmer, or any doctor of the institution, know of their being buried there?—A. No, sir; Dr. Palmer did not know anything about it.

Q. Did any other doctor of the institution?—A. No, sir; I do not believe any one but the gentleman who got me to put them down for him. He did not tell me to bury them. He asked me to clean them for him; so I put them down there.

Q. What were the remains?—A. The trunk part of a subject, with the lower part of the skull attached to it. The top part was off.

Q. You took that method of cleaning them?—A. Yes, sir; I took them to clean for him.

Q. What was your position at the hospital?—A. Working around there, keeping the grounds clean; almost anything that comes to hand like work; attending to the store-rooms; first one thing and then another.

Q. Was there flesh on these bones at the time you buried them?—A. Yes, sir; there was some little flesh on them.

Q. How deep did you bury them?—A. When I put them down there, I put them about two feet; perhaps a little more when I first put them down there.

Q. Did you take them up afterward, before this time?—A. I went to work there to try to get them up; and I made a trial of it before that, before this report, and I was not successful in getting them.

Q. Why not?—A. I could not find them. They were watching me, so that I did not get them. I did not care about any one seeing me, to raise any excitement around, as of course I thought it might. The student told me that he wanted them; and so this time I went to get them, and it was about the same thing; I saw them watching me and I could not get at them. Now, mind, there is one thing I should have explained about this thing to the health-officer, which I think I had better mention here. I had found these, and the parties were watching me so close I did not get at them, and I just covered them right over again. I did not take them out, because I did not care about them seeing me. I commenced at it just before daylight, and had a little trouble about finding it.

Q. You had forgotten just where you put it?—A. Yes, sir; I did not strike the place exactly.

Q. Have you buried any bones there since?—A. No, sir.

Q. Had you buried any before?—A. I had a few more buried at the same time, but not any before or since.

Q. What had you buried at the same time?—A. I buried some few bones for a lady by the name of Mrs. Hillyer. She was a student there.

Q. What were the bones you buried for her?—A. Those were the ones I have taken up since.

Q. What were those bones you buried for her?—A. I do not know the names of the bones exactly.

Q. Arms, or legs, or what?—A. Some parts of the arm, I think—not many.

Q. Was that all?—A. Yes, sir, that was all.

S. F. STAGG sworn and examined.

By Mr. SARGENT:

Question. Are you a student at the Howard Medical College?—Answer. Yes, sir.

Q. Are you the person referred to by Mr. Banks?—A. Yes, sir.

Q. State what you know with reference to the bones buried at the Freedmen's Hospital grounds; how they came to be buried, and who knew about it.—A. There were some bones I wanted cleaned, and I asked him to clean them. I do not know that any one knew it except Mr. Banks. I knew nothing about their being buried there. I knew they were buried, but I did not know where.

Q. How did you obtain these bones?—A. From the dissecting-room. They were some of my dissections, partly.

Q. How thoroughly had the flesh been cleaned from these bones?—A. Nothing but ligaments were attached to the bones, and attachments of muscles. The muscles were removed, as they are generally, in the dissecting-room.

Q. What was your object in having these cleaned or buried?—A. Because I wanted to preserve them for study.

Q. Did you have leave from any of the officers of the institution?—A. No, sir.

Q. You say they knew nothing about it?—A. They knew nothing about it.

Q. Had you ever had any others buried there?—A. No, sir.

Q. Or do you know of any others having been buried there?—A. No, sir.

Q. What were the bones?—A. They were the lower part of a skull, a spinal column, and ribs, and pelvis.

Q. Were you there when they were dug up?—A. No, sir; I was at the college. I was not present on the grounds at the time.

By Mr. EATON:

Q. It seems that these remains were disinterred in November. Do you know when you caused them to be buried? I understood you to say you did not know where they were buried; but did you know the time, about how long they had been in the ground?—A. I do not know when they were buried, but I asked Mr. Banks to clean some bones for me about the 1st of December, 1876.

Q. Then they had been there nearly a year as you suppose; that is, you had given them to him nearly a year before?—A. It was a year before that I asked Mr. Banks to clean them for me.

Q. You did not know that they were placed there?—A. I did not know where they were. I only knew they were in his hands for cleaning.

Q. Had you before this dissected any remains, and were you made somewhat familiar with the process of dissection?—A. Yes, sir.

Q. Were they as thoroughly cleaned as they could be in the dissecting-room or as they would be?—A. As thoroughly as they are generally. They could be cleaned more, of course.

Q. Were they cleaned as usually is the case?—A. Yes, sir.

Q. You were not there when they were exhumed?—A. No, sir.

J. B. JOHNSON sworn and examined.

By Mr. EATON:

Question. What is your position?—Answer. I hold the office of secretary and the office of treasurer of the Howard University.

Q. Will you state the value of the property which belongs to the university that the Freedmen's Hospital occupies, treating it separately from the university proper?—A. Yes, sir. At Dr. Palmer's request I looked the matter up, and I put it in the form of a communication.

Q. Suppose you read that communication.—A. It is addressed to the chairman of this committee.

HOWARD UNIVERSITY,
Washington, D. C., February 14, 1878.

Hon. A. A. SARGENT,
Chairman of Committee on Freedmen's Hospital:

SIR: I have the honor to submit the following statement pertaining to the cost of the Freedmen's Hospital owned by this university, now occupied by the United States.

There are, in addition to the main brick hospital building, four (4) frame two-story ward buildings, one engine-house, one laundry, one mess-house, one kitchen, and three outhouses, dead-house, &c.

From the books of this office I find that the cost of the buildings and appurtenances was $164,861.42, made up of items as follows, in 1868, 1869, and January and February, 1870:

H. R. Searle, architect	$3,125 50
Evans & Entwisle, contractors	18,700 00
Evans & Entwisle, contractors	48,900 00
A. R. Shepherd & Bro., plumbers, for plumbing, steam fitting, &c	15,853 06
The next entry charged to these buildings is for ten items for work on ward-buildings, material used in fitting up wards, engine-house, laundry, and main building, plumbing, introducing water and gas, furnishing and fitting furnaces, labor-hire, plastering, painting, and grading grounds	72,289 04
Thomas Evans (plumber and gas-fitter) and others, sundry bills	5,993 82
Total	164,861 42

The grounds comprise about 150,000 square feet, valued in 1872 at 40 cents per square foot.

I put 1872 in because the difference between valuations at that time and this is considerable, and the cost of the buildings was at that time.

Of this the university owns 102,000 square feet, on which the buildings (except 2 wards) stand.

This portion is valued at about 20 cents per square foot now, making about	$20,400 00
That portion of the grounds on which the two west ward buildings stand is held by the university by lease, and is valued at about $8,000 or $10,000, making the present value of the land used by the United States, about. That is about one-half what it was valued at in 1872.	$28,000 00
Add to this the cost of the improvements herein given	164,861 42
Gives a total of	192,861 42

Respectfully,

J. B. JOHNSON,
Secretary and Treasurer Howard University.

Q. That gives the cost of the building built when prices were very high. What I wanted was an examination made as to the value of the buildings now, in their present condition, with the shrinkage of values, as there has been a very great shrinkage in the last few years. You have approximated to it so far as the land is concerned, and reduced that from 40 cents to 20 cents a foot. Now, in regard to the buildings.—A. I should suppose the value of the buildings alone, including all the fixtures, plumbing, pipe, &c., to be $100,000 in these times. The executive committee, under whose direction I operate, have once or twice thought of putting a deed of trust on that property for the purpose of paying a small debt which is part due, and have estimated that property at that figure within the last year for that purpose.

Q. Then your best estimate would be that the property with the buildings is worth to-day $125,000?—A. Yes, sir.

Q. Taking all the shrinkage into consideration?—A. Yes, sir; I should say it was worth that.

FRIDAY, *February* 22, 1878.

The subcommittee met at the Freedmen's Hospital.

DANIEL POTTER (white) sworn and examined.

By Mr. SARGENT.

Q. Where were you born?—A. Near London, England.

Q. How long have you been in this country?—A. Seven and a half years.

Q. Are you a naturalized citizen?—A. I am not.

Q. Where have you lived since you have been here?—A. Four years in Troy, six months in Philadelphia, and the rest here.

Q. How long have you been in this hospital?—A. Since the 19th of May last.

Q. What hospital had you been in previously?—A. I was in Providence Hospital three weeks. Through the kind auspices of Lady Thornton I went there when I was first sick.

Q. Did you come to this hospital from there?—A. No, sir; I left there because I thought I was able to leave the hospital and I had work in this city. I thought I was able to accomplish that work; but during the three weeks previous to coming here I had a relapse.

Q. Where were you at work?—A. Then I was at work on K street in a place called the Hamilton House, a boarding-house, doing some upholstering-work. Previous to that I worked for W. B. Moses.

Q. How long did you work for Moses?—A. I worked for him in all about four months, probably five months.

Q. Is that your letter? (Handing to the witness the following letter:)

FREEDMEN'S HOSPITAL,
February 18, 1878.

GENTLEMEN: I hereby charge that, on Thursday, the 14th instant, a prominent witness, one Charles Banks, committed perjury in the testimony given by him before your committee in exculpation of the surgeon-in-chief of the Freedmen's Hospital, by imposing on you fiction instead of truth, concerning the burial of human remains on the hospital premises.

Such n endacity furnishes a parallel in turpitude to the fabricated testimony and spurious affidavits lately foisted on the Hon. Secretary of the Interior, with intent to deceive him as to the management of the hospital which is under his jurisdiction, and for whose proper administration he is accountable.

If accorded a hearing before your committee I will substantiate my averment by credible witnesses, and prove that human remains and offal from the dissecting-rooms of the Howard Medical College have been inhumed in large quantity at different times, and in different parts of the hospital inclosure, for actual sepulture and not for the sole purpose of "*maceration*" for the benefit of certain medical students, as is now pretended, but which pretense can be demonstrated by irrefutable evidence to be a mere subterfuge.

Respectfully submitted.

DANIEL POTTER.

Hons. A. A. SARGENT, W. B. ALLISON, and W. W. EATON,
Senate Subcommittee to investigate the Freedmen's Hospital.

A. Yes, sir; that is my letter.

Q. Can you make any statement of your own knowledge in reference to the facts there referred to; for instance, in reference to the burial of bodies?—A. On the 16th of November last I was a witness to the taking up of a body at the dead-house. The body apparently had no arms, but the flesh was on it.

Q. Is that the body referred to by the coroner and others?—A. Yes, sir; and it smelt very badly, insomuch that everybody had to draw away when the body was exposed. Then Lieutenant Johnson after some little time directed it to be buried. It was about a few hours;

but that same night it was taken up and carried into the dead-house. On the following day Dr. Purvis and two or three men for five or six hours were taking up refuse and bones. That also was carried to the dead-house.

Q. Were you there?—A. Yes, sir; and saw it all.

Q. How many bodies did they take up?—A. There were five different places that they took the remains out of.

Q. What were these remains?—A. These were bones that were put into a bag and carried into the dead-house.

Q. Can you describe the bones?—A. I cannot minutely describe them; that is, I did not examine them, but they were evidently human bones, taken up all the way along by the side of the dead-house.

Q. How many of these bones were there?—A. A fair average cart-load; that is to say, in other words, four to five good wheelbarrows full. Dr. Palmer sat in the engine-house.

By Mr. ALLISON:

Q. Looking on, do you mean?—A. Looking on.

Q. Who else was present beside yourself, Dr. Palmer, and Dr. Purvis?—A. Lots.

Q. Name them.—A. The most prominent was Calvert, the engineer; and a man named White; he also saw it. I believe a man named Strader. These are men now here. There were several men who saw it; but Dr. Palmer ordered the rails to be taken away that the men were sitting on.

Q. Where is White?—A. He is here in the hospital.

Q. Which ward?—A. Chase's ward, I think. I remember seeing him and Strader.

Q. Who is Strader?—A. He is also in Chase's ward. I remember these among them. There were probably twenty patients around. A rail ran along there, and Dr. Palmer had that taken up, so that they could not sit around, and so they distributed themselves. Dr. Palmer called me into the engine-house and had a conversation with me.

Q. Were there any whole bodies taken up at that time?—A. Not whole bodies.

Q. What were they—arms, or legs, or what?—A. There were arms and legs; that is, I presume they were; they were pieces.

Q. Pieces of bodies?—A. Yes, sir.

Q. You say in your letter that they were not put in for purposes of maceration?—A. They were offal from the dissecting-room.

Q. These bones?—A. The refuse was. A great deal of it had been buried out there, which a man named Wesley Lucas has been paid for so doing.

Q. Did you see him paid for it?—A. I did not see him paid for it.

Q. How do you know it?—A. I know it because he was promised $3, and he made application.

Q. How do you know that?—A. By his own statement.

Q. It is not necessary for you to state anything except what you know. We can call him for that.—A. Exactly.

Q. Have you any other statement to make in regard to it?—A. Nothing in regard to that.

By Mr. EATON:

Q. You speak of legs and arms. Did you see the hands and feet?—A. No; I did not see the hands and feet.

Q. What did you see that makes you know that a particular bone was an arm?—A. From the general appearance of them.

Q. Of the bones?—A. Yes, sir.

Q. Was there any flesh on them?—A. There was flesh on some of them.

Q. On what?—A. On some of the bones that were taken up. There was also soft matter put into sacks and carried into the dead-house; that is, when they came to a place where they were, they were gathered up, shoveled into the bags, and then carried into the dead-house. Dr. Palmer, in conversation at that time in the engine-house, said he was about to have all that gathered up, and that was what they were then doing, and that he should see that the parties that put it there were—I forget about the word, but the meaning was that he would see that they were punished, or something of that kind, for it.

By Mr. SARGENT:

Q. Now make any statement you wish in reference to the hospital since last May, of your own knowledge.—A. When I entered on the 19th of May I was very sick. I was put into Dr. Purvis's ward and received the ordinary care. The bread was sour, vegetables very poor, the meat was very bad, and the sanitary condition of the hospital, and the water-closets, and everything of that kind was very bad. My bed that I slept in I made complaint to the nurse for at least three weeks that I could not sleep in it on account of bed-bugs, or chinches.

Q. What was the name of the nurse?—A. Lucius Hawkins. I complained to him two or three times during the three weeks; then told him that if he would lend me a hand we would take it down into the yard. At the bottom of the bed was an old mattress, in a filthy condition. The mattress was literally covered with bed-bugs. I should say without the slightest exaggeration that there were thousands, and I said, "For goodness' sake, Lucius, do not let that go up into the ward again; it never ought to go anywhere." The tick was filthy, and I said, "For goodness' sake, if you will only get a straw tick and give me some straw to sleep on so that I shall be free from that vermin, I shall be satisfied," and he did so. I have killed on my pillow as many as nineteen or twenty of a night. After I became convalescent I went into the mess-room to assist around with Dr. Purvis. I concurred with him; he thought it would do me good to have exercise, and I was in that room for about three months. There I found that the patients, upwards of about one hundred, had for breakfast one slice of bread, about a pint of coffee, about two table-spoonfuls of very inferior hominy, and there was a sauce that was made and put over it that was composed of hog-fat, flour, and warm water, or something of that kind. It was so bad that the men could not eat it. That was their breakfast. Dinner would be about four ounces of meat, one potato, one slice of bread, and the meat on beef-days would be composed of tongues, hearts, and necks, and that class of meat. Supper would be one slice of bread, one mug of tea, with a very small dab of molasses. There was only one slice of bread allowed for each patient, inasmuch as there were ninety-six patients and twenty-four loaves put out for them, and that was cut into four slices a loaf.

Q. How large were the loaves?—A. They were supposed to weigh a pound, I presume; but that was the quantity. A man had a second slice of bread if there happened to be any left from the previous meal. Out of the ninety-six there might be six or eight absentees, and that would give six or eight slices for the next meal. The corn-bread was at that time excessively bad.

By Mr. ALLISON:

Q. Was corn-bread served at the same time?—A. To a few individ-

uals that preferred corn-bread, but not with the white bread. When the whole of them were served with corn-bread, they then had a piece of corn-bread to each one, and it was of a very inferior quality; it was hard and very badly baked. There was one instance one morning of a man named Kelley—he is not here now—who asked me for a piece of white bread. I told him I had none, and the consequence was he could not have any. He took a piece of corn-bread and left the hospital and I believe took it down to the Interior Department. This sort of thing went on precisely like that until just the eve of the investigation, and Dr. Palmer, Dr. Purvis, and the others would be here alternately very early of a morning. Then there was butter introduced, and the coffee was better; and when there was not butter there was a small portion of meat for breakfast; the food was brought up to a little better standard. I believe that men can have what bread they require. When the investigation began here, the third day I was discharged from the hospital without any cause whatever. I went down to the Secretary and the Secretary sent up a messenger here with a letter. I was under Dr. Purvis for about six weeks after that, or rather until the 11th or 12th—I think the 11th—of November, and Dr. Purvis when he came around the ward asked me on that morning, which was Sunday morning, how I was, and I described to him that I had a pain in my side and generally how I felt. He made answer and said, "Yes, I will give you a dose to-morrow morning that will kill you."

By Mr. SARGENT:

Q. Was any one present at that conversation?—A. Yes, sir.

Q. Who else?—A. Johnson.

Q. What Johnson?—A. Robert Johnson was there. I do not know whether anybody else was present. He was lying in bed and could not help hearing it.

Q. Were you near Johnson's bed?—A. I was in the next bed.

Q. Who was at the next side?—A. The wall was at the next side. I was sleeping in the bed next to Johnson. I do not think there was any one at the time in that bed; I do not remember any one else being around there.

Q. How loud did he speak it?—A. About as loud as I am speaking now.

Q. So that he could be heard at half a dozen beds distant?—A. If the people were there.

Q. Were there not people in the beds?—A. No; no one except a man like Johnson, who had to lie in bed.

Q. People sit by the sides of their beds, I notice, all the time?—A. Yes, sir. I do not remember any one else who would have distinctly heard it.

Q. Do you know whether anyone heard it at all?—A. I do not know whether any one did hear it for I never made any inquiries about it.

Q. Did you inquire of Johnson?—A. No, sir. The next morning, the 12th of November, I believe, Dr. Purvis took my card and made me go out, whereupon I went down to the Secretary, mentioned the case to him, and he told me he could not interfere in any of the details of the hospital; but I was so sick that I had to go somewheres, and I made application to Dr. Bliss to give me an examination, and he carefully examined me. He gave me a certificate stating the state that I was in, and he wrote a few words to the Secretary, which I took to him and waited for an answer. The answer that the Secretary sent out to me was that he had sent to the Freedmen's Hospital and directed Dr. Palmer to take

me in. That night I came up, and Dr. Palmer told me I could not stop here, whereupon I went down the following day and acquainted the Secretary with it. He told me to still come up, and I came up here. The next night Dr. Palmer told me that he had received no information from the Secretary, but that I could stop here, have my supper, bed, and breakfast, but to get out in the morning, whereupon I did. I made application to the Secretary; I went down. He sent for me, and he told me that he had sent an order up here that I was to be taken in. I came in and went under Dr. Glennan. On Sunday morning Dr. Glennan found me very sick in bed with a relapse, and ever since then under Dr. Glennan I have been getting very much better.

Q. Is Dr. Glennan an attentive physician?—A. Yes, sir; with me.

Q. Does he take good care of you?—A. Dr. Glennan has taken very great care of me ever since.

Q. Does he take good care of the ward he has charge of?—A. It is kept in the ordinary way; that is to say, he looks after it that it is kept clean. I noticed that he mentions everything to the nurses, that is to say, if he sees anything wrong.

By Mr. EATON:

Q. You say he is attentive to you as a physician?—A. Yes, sir.

Q. What Senator Sargent asks is, is he attentive to the ward, to other patients?—A. Yes, sir; he is. I have no complaint; I do not know that any one has, of the ward; but every man there has a complaint, that is, if he chooses to make it, as regards the clothing, because even now we have lice on us. On the 1st of February last—this last 1st of the month—when the clean drawers were given out to me, I saw them. I, the week previously, had found some lice on me, which I pointed out to the nurse, James Hurd, and when the clean clothes came I had made up my mind that I would see, if possible, where these things could come from, because I could not conceive that in the sense of the word plainly the ward was lousy; that is, I had never seen them about, only occasionally on sheets or something of that kind, an occasional one, and I had told Hurd there must be some man or something around here, one or two of them, that must have got these things on them, or else they would not drop about. On the 1st of February, being Friday, when as usual we have our clean clothes given out, I determined to examine the drawers; that is, the drawers that were given me, and in so doing I found in those drawers four dead lice that had been killed evidently during the washing but had not been rinsed off. I took them off with a pin. They were a sort of woolen drawers; that is, cotton-woolen inside. I took them off with a pin, and called the nurse and showed them to him. I said, "Hurd, these things really come by the inattention of the washing or something of that kind, because here they are." There was another man at the same time, of the name of Lyons, who examined his, and he found a lot of nits on them. He took a poker and heated it in the stove and burnt them in the seam. The nurse said, "Well, what do you think; shall I get you any others?" I said, "I guess these are all right; I'll try them." Four days after I found two live ones on me.

Q. Were these body-lice?—A. Yes, sir; I am speaking of body-lice. He came up with the matron and obtained a new undershirt. I said, "It is no good of you bringing me down old ones; get me some new ones if they will give them to you." He brought me down a new undershirt. I do not know whether the drawers were new. However, I put on clean clothes. That has been frequently the case with several who have been in the ward and are here now.

By Mr. SARGENT:

Q. What is the character of the patients brought into the hospital? Are they both colored and white?—A. In the ward that I am now there are only two of us white; all the rest are colored.

Q. How do they come into the hospital; in clean, nice clothes, or in a dirty condition?—A. Those that are in the hospital now, in the ward I am speaking of, have been there for years, I presume, every one of them.

Q. Have there been no deaths in that ward since you have been there?—A. Not since I have been there. One man has died that was in there; he had dropsy or something of that kind, and Dr. Glennan had him removed over to this ward, I presume, for better attention, there being a night-nurse here. He died, but there has been no deaths in my ward since last November. There has been one man died in Chase's ward.

By Mr. EATON:

Q. What number is that?—A. Ward 6.

By Mr. SARGENT:

Q. The persons that are in your ward, then, are not persons with deadly diseases?—A. No, sir.

Q. It might be considered one of the best wards?—A. One of the best wards; that is to say, they are all convalescents. When I say "convalescents," they are principally elderly; the majority are elderly men, and men that are crippled, probably. Two or three besides myself, now fortunately not very bad, are consumptives.

Q. Are the patients quiet and well-behaved?—A. Yes, sir.

Q. And your physician pays great attention to the ward, gives you kindly medical attendance, and your fare is now good?—A. The fare is very much better than it was.

Q. Have you any complaint to make of it as it is now?—A. No, sir; because I believe now anything that a man reasonably requires, if he asks for it, will be furnished him.

Q. Do you ever go out of the hospital?—A. I occasionally go out to take a walk.

Q. How often? How many times have you been out this week?—A. Once.

Q. Where did you go?—A. I went down to the city.

Q. How long were you gone?—A. An hour and a half.

Q. Do you ask leave to go, or do you go whenever you wish?—A. Whenever I wish; that is to say, the hours are up to half past eight. After the doctor has gone through we are allowed to go out any reasonable time, provided we are in here at proper time for meals. When I go out I generally go out after dinner, except it is very fine, frosty weather, when, perhaps, after the doctor has gone out, I take a walk on the hill.

Q. Are the clothes which are given to you the ones you had previously worn, or are they taken from the general stock, on Fridays, when the change is made?—A. The clothes for every ward come back to that same ward. For instance, they are all numbered as "No. 6 ward."

Q. They do not, however, come back to the same individuals?—A. Probably not, although I guess the nurse, as near as he can, does that.

Q. Do you get back generally the same clothes you had before?—A. I believe I do. I believe my undershirts are the same.

Q. And the drawers?—A. I do not think they could keep track of the

drawers, because they are all alike; but my undershirts are not the ribbed shirts. Most of the other men wear ribbed shirts, and I generally get mine back.

Q. Do you know what the process of washing here is? Do they do it by steam?—A. I believe so. I never was in the wash-room. I only imagine it is by steam because of the steam-boilers.

By Mr. ALLISON:

Q. You say the food is satisfactory now. Is the quantity greater than before?—A. The quality is better, and the quantity is more.

Q. That is to say, instead of having twenty-four loaves of bread for ninety-six people, you have more loaves?—A. That I do not know. I have not been in the mess-room. I am speaking of the ward diet.

By Mr. EATON:

Q. Is not a loaf of one pound ordinarily enough for four persons?—A. They are about that size [indicating].

By Mr. SARGENT:

Q. About 8 inches?—A. I imagine so.

Q. Did they not have meat with bread?—A. There was not a piece of meat given, except at dinner.

Q. They had hominy at that time?—A. They had hominy, but it was very bad; green and musty.

Q. What else besides the hominy did you mention?—A. Nothing.

Q. They had bread and hominy only for breakfast?—A. Yes, sir.

Q. That was last May?—A. I was in the mess-room from June forward three months.

Q. And there was nothing for breakfast at the mess-room but what you have stated?—A. At the mess-room nothing for breakfast but bread and hominy, and one slice of bread for supper. At that time the meat was very bad. There was not such a thing—I noticed particularly that I never saw such a thing, until the secretary himself had been up here, which he came up here one day; I never saw such a thing as a whole quarter of beef come into the place until after that. They were all odds and ends; nothing further than about the shoulder.

WILLIAM BROWN (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you a nurse in this hospital?—Answer. Yes, sir.

Q. How long have you been?—A. I guess about 12 years.

Q. What ward have you now charge of?—A. Number 1 and number 2.

Q. Are you a day-nurse or a night-nurse?—A. A night-nurse.

Q. Is there any other nurse in ward 1 or 2 besides yourself?—A. No one but me.

Q. Do you have assistance in the patients?—A. Sometimes.

Q. What do you do as a nurse for the comfort of your patients?—A. I give out the medicine, keep up the fire, and attend to whatever they want done; wait upon them at night so far as the comfort of the patients is concerned.

Q. Are you attentive in doing that?—A. I always do all I can.

Q. Do you take pains to take care of the patients?—A. I take pains to do all I can to take care of them.

Q. Do you succeed in taking care of them?—A. Well, it is too much for one man. It would take two men to do all.

Q. How long have you had charge of two wards?—A. It has been going on three years, I guess, since I have had charge of two wards.

Q. Did you have charge of two wards under Dr. Reyburn?—A. No, sir.

Q. When did Dr. Reyburn leave?—A. It was some time, I believe, in March, 1874 or 1875, I have forgotten exactly the date, but I always had another man down-stairs with me then to take charge of the lower ward, and sometimes when a man was sick in one ward and needed assistance he would detail some of the patients to help us.

Q. Have you had charge of the same wards for twelve years?—A. No, sir. When the hospital used to be over yonder at Le Droit Park I staid over there all the time pretty much since 1866. I was there working then. I only had charge of one. That was a larger ward than this.

Q. How long has the hospital been here?—A. I suppose about eight years, as near as I can come to it.

Q. Who had charge of these wards before you took them?—A. When they moved over I came over to take charge of one ward.

Q. Which ward did you take charge of?—A. Number 1.

Q. And who had charge of number 2 then?—A. Mr. Street. He is a day-nurse now.

Q. He was night-nurse then?—A. Yes, sir; he and I were both on as night-nurses.

Q. How long did he remain so?—A. He remained so, I guess, about four years—four or five years; I do not know which.

Q. I understand you, then, that since Dr. Reyburn left, one less night-nurse has been employed?—A. There was a change made during the summer. There was not many patients here, and one man had to go away. There was a change made before Dr. Reyburn went away. Dr. Reyburn told me there was not many patients here, and he wanted me to take charge of both wards until he could get some one. There came a fuss; he had to go away, and he went away in March. We did not have any white patients then except now and then. All of them pretty much were colored, and there was not many people. They did not admit as many people as they do now; the hospital was not as full as it is now. Of course during the winter they gave me two convalescents to help me; during that winter they did not hire any one, and it went on so. Since we have been crowded with both white and colored, sometimes we have not had room to put them.

By Mr. ALLISON:

Q. You say more patients are in here now than at any former time?—A. Yes, sir; it has been so for the last two or three years—over two years anyhow. Under Dr. Reyburn's administration we did not have any white patients at all, only now and then we picked up one sick. Most all we had was colored.

By Mr. SARGENT:

Q. Are you speaking about a great many more white patients now than there were then, or of a great many more patients altogether?—A. A great many more altogether. We have more, many more white altogether.

Q. And a great many more colored altogether?—A. A great many altogether.

Q. The hospital is pretty much crowded?—A. Very much crowded, only three or four beds vacant in wards number 1 and 2.

Q. How many beds were there generally vacant three or four years

ago?—A. Sometimes we had as many in one ward as nine or ten; but I do not know exactly close. They did not send so many people here then. Almost always in the winter, when it is very cold, and times very hard, we filled up; but in the last two years, going on three years past, we have been having more patients than we had for some time. Sometimes, of course, we got crowded when Dr. Reyburn was here, but it was pretty much all colored. There were two of us on, and he always made some of the convalescents help us. Each one of us would have one.

Q. Do you have any patients in separate rooms in your wards?—A. Not now; only now and then we sometimes have.

Q. Do you pay attention to those just the same as the others?—A. Yes, sir; go and see them as often as I can. Sometimes when I go through down-stairs, I go in and see them.

Q. How often would you go in to see them during the night?—A. Five or six times. Every time I go around I go in and see them.

Q. If any one makes a statement that you do not go to see them for 18 or 20 hours, he is in error?—A. Certainly. We had some two or three men in there sick, and other men would go in there and when they were very bad off and sit up with them—I mean convalescents who were walking about. There was not a man died in the room neglected. I know that and can find sufficient witness for that.

Q. Suppose a person dies in the night, what do you do?—A. I go and get assistance, wash them, and take them to the dead-house.

Q. Where do you wash them?—A. I get water in a tub and wash them right in the ward where they die, and take them right out.

Q. What do you dress them in?—A. Sometimes in the hospital clothes; sometimes their own clothes.

Q. Do you put their own clothes on them if they are dirty, or are they cleaned?—A. We put on clean clothes. We get clothes, shirt, and drawers, and things, and fix them up clean.

Q. You have charge as night-nurse of the ward in which Mr. Johnson is, have you not?—A. Yes, sir.

Q. And that is the way you do in that ward?—A. Yes, sir.

By Mr. ALLISON:

Q. Have there been many deaths in that ward?—A. We have not had many recently. There was a great many, but not recently.

By Mr. EATON:

Q. Within a year how many?—A. I never keep an account of them; the books would tell.

By Mr. SARGENT:

Q. What kind of food is given to the patients?—A. They get very good food.

Q. What do they have for breakfast?—A. They have bread and butter, tea, toast if any one needs it. Pretty much whatever they ask the doctor for they get. If a man is sick, and cannot eat anything heavy, he has toast and eggs—all the necessaries.

Q. How was that a year ago?—A. There was some complaint a year ago, but it did not amount to anything. The sick men always, when they ask for anything, get it, to my knowledge. Of course, I was not around much in the day with the doctors, but I was always there in the morning, and most anything they asked the doctor for, to my knowledge, the doctor would give it to them. I see egg, and custard, and

rice pudding, and milk and rice, and all those things, come up on the tray.

Q. Has that been true at any time during the last two or three years?—A. Yes, sir; that has been true.

Q. Where do you eat?—A. I take my meals at the table in the mess-room for the nurses and attendants.

Q. Do you have the same food as the others, and as the patients?—A. Yes, sir.

Q. What do you have for breakfast?—A. Sometimes bread and butter, hominy, or rice, or whatever they have, and sometimes beef, sometimes pork.

Q. Has the mess-table been pretty much the same during the last two or three years?—A. All ate the same; the same food was put on the table; all came out of the same store-house.

Q. And it was the same two or three years ago that it is now?—A. Yes, sir.

Q. Was it cooked in the same way?—A. Yes, sir; cooked in the same way, by the same cooks.

By Mr. ALLISON:

Q. Was there any trouble last summer, at any particular time, do you know, about getting poor food?—A. Last summer, three or four times the meat was not very good; it was not rotten, as some of them said. I do not know whether it was the heat or the weather, but it was tainted; three or four times the beef was not very good.

Q. Three or four times?—A. Yes; I think about four times, to my notice.

By Mr. SARGENT:

Q. What kind of meat was brought in; quarters of beef, or what? Did you see the meat as it come into the hospital?—A. I did not see it when it came into the hospital.

Q. Did you see it in the hospital?—A. I saw it put on the table, and sometimes saw it when the men were delivering it, but never noticed it particularly.

Q. Was it like the ordinary meat in butchers' shops?—A. It looked fresh and good at times when I passed by, but I never paid particular attention to it.

Q. Was it composed of heads and tails and things of that kind, or was it regular beef?—A. I never saw any heads and tails at all. I saw twice on the table at dinner a piece of the heart of a beef, and other times a piece that they said was a piece of the udder, the heart some of them said, but that was only a small piece on the dish, that was cooked.

Q. Only on two occasions you ever saw any heart?—A. I saw a heart I think twice, and a piece that they said was udder; I do not know whether it came in among the meat and they cooked it or not.

Q. On one occasion?—A. Yes.

Q. But generally the beef was nice and fresh and good?—A. Yes, sir; the beef they had was good beef.

Q. How was the hominy that you had for breakfast; was it musty and bad?—A. There was sometimes about a few occasions I used to see the hominy musty. I did not know whether it was the oldness of it or not, but it was sometimes, not very often, but two or three times.

Q. Generally for these two or three years you are speaking of it, it was good?—A. Yes.

Q. How about the rice?—A. The rice was always good.

Q. How about the pork?—A. Sometimes the pork was strong. I do

not know whether it was owing to the cooking of it or not; but it seemed to be very strong sometimes.

Q. On the average, how was it?—A. On the average, fair pork.

Q. Do you mean salt pork?—A. Yes, sir.

Q. How was it on the average, generally?—A. The pork always seems to be pretty good, except sometimes.

Q. Except occasionally?—A. Yes, sir.

Q. Something has been said about salt mackerel furnished to the patients. Do you know about the ordinary quality of salt mackerel?—A. I do not know much about the mackerel.

Q. How was it usually?—A. The mackerel sometimes smelt kind of strong of brine, seemed to be old; but then the mackerel was good, only sometimes it was not soaked sufficient. That was all the trouble I saw.

By Mr. ALLISON:

Q. The salt was not soaked out of it?—A. Exactly.

By Mr. SARGENT:

Q. Do you find the average of the last three or four months the same as the average of the three or four years you referred to?—A. I do not know whether they take more pains in cooking, but the food has been better than it was at some times.

Q. On the whole, how do you think it is—about the same?—A. On the whole, it is pretty much, I think, the same.

Q. Now is there about the same attention of the doctors going about their wards that there was before?—A. The doctor always comes every day, and any time the doctor is needed in the night I send for Dr. Glennan, and he never fails to come in any sickness.

Q. How is it in regard to the water-closets?—A. Some time last summer the water-closet was out of order one time, I think, for three or four weeks. We put two night-buckets in the room. Sometimes there were very sick men, and we did not have time to empty them very often, and some of the men would go there and see a bucketful and empty it. The sink was not very good, and some of them would abuse it and wet it, but we always went there and mopped it up of a night; we would take a scrubbing-cloth and clean it up. But then it was not so very bad. Those men that could not go out had night-buckets by their beds, and we always emptied them.

Q. One of the persons who have testified, speaks of the water-closet as having been two or three inches deep with excrement and filth during the night.—A. No, sir; there was nothing like that there. You can find sufficient witnesses to prove that is not so. I heard that Mr. Felton said that; but the water-closet could not be that deep; no, sir.

Q. Could it be anything like that?—A. No. When some of them would go in there they would stand up and wet on the floor; the urine would drop on the floor; but there were plenty of men walking about, and sometimes when we would be very busy down-stairs, some of them would go in there and empty the bucket. The bucket was a large bucket, as large as a water-bucket.

Q. You say the patients would do that?—A. Yes, sir.

Q. And would slop the seat?—A. Yes, sir; some of them, when they would go in there, would wet in the bucket, and some of it fell on the floor; but it was not inches deep; it was only where it dropped around the bucket on the floor.

Q. You say you would go and mop it up and clean it up whenever

you discovered the patients had done anything of that kind?—A. Yes, sir.

Q. When was a urinal put in that water-closet?—A. The urinal was put there, I think, a while before the investigation.

Q. Had there ever been a urinal there before?—A. Not in that ward. That ward had been built recently; but in these others there was.

Q. Were the urinals taken out?—A. There was not any put over there.

Q. But in the other wards, do you know whether the urinals were taken out?—A. I do not know about that, except that after we moved here they put the women in a ward where there was one. They used to have the women down-stairs in this brick building; but they moved them over yonder. I heard that the urinal was then taken out of that ward.

Q. Because it was turned into a woman's ward?—A. Yes, sir.

Q. Are the patients cleanly about the closets, or do they defile them purposely?—A. Sometimes some old men go in there, and they drop something on the floor or the seats; but we always clean after them. They always acted pretty cleanly; kept it tolerably clean.

Q. How happened this water-closet to get out of order this summer?—A. There were some of the pipes leaking out there, and the engineer took out the pipes and did not put them back.

Q. Who was the engineer?—A. Mr. Calvert—John J. Calvert.

Q. Then it was his neglect of duty in not putting them back?—A. Certainly. I cannot put it on any one else than him, because he took the pipe out. We complained about it leaking, and he came there and took out the seat and pipe and things and did not put them back.

Q. How happened they to be put back? Who ordered them back, do you know?—A. We spoke about it two or three times. Dr. Palmer came up one day and said he did not know the water-closet was out of repair. I think, just before the fuss, Mr. Felton complained of it, and the doctor came up there, and then he said he did not know the water-closet was taken to pieces.

Q. Did he order it fixed then, or was it fixed at once?—A. It was fixed at once. He had the seat put in, the pipe fixed, and a urinal fixed in right away.

Q. Had Dr. Palmer been absent for a short time then?—A. Yes, sir; he had been absent.

Q. For how long, about?—A. I think about three weeks.

Q. And on his return his attention was called to it, and he had it fixed?—A. Yes, sir; I have been working in the hospital during the time of the war, and ever since the hospital was over there (indicating). I remember he was away.

By Mr. EATON:

Q. You have spoken of the attendance of the physicians as being good. Whenever they were needed in the night they came?—A. Yes, sir.

Q. Now I want to ask you this general question, you having been here a dozen years: has the attention of the physicians been as good for the past three years as it was before for six or five years previously?—A. They always came around the same in the morning just as they did before, and if any one was sick of a night, we sent for Dr. Glennan and he never refused to come. I can say that. I cannot say any other way. If it was twelve o'clock or one o'clock, it made no difference.

Q. I want you to say exactly as it is. The attention is as good now as it ever was?—A. Yes, sir.

Q. And has been for the past three years as good as it was for six years before?—A. Yes, sir.

By Mr. SARGENT:

Q. Is there any other statement you wish to make?—A. No, sir.

SAMUEL STEWART (colored) sworn and examined.

By Mr. SARGENT:

Question. How long have you been in the hospital?—Answer. I have been here near two years.

Q. Which ward are you in?—A. Dr. Purvis's.

Q. What is the number of it?—A. No. 2.

Q. You can make any statement you wish in regard to the hospital, the treatment, the food, or any other subject.—A. The food of the ward, the extra diets, are now very well; but before the investigation they were bad, generally. What we got at the dining-room was very bad. The men in the ward who were very sick would get extras, such as corn-starch and milk-toast. Dr. Purvis has been very good to me ever since I have been here.

Q. Has he shown any favoritism to you?—A. No, sir; he has always acted courteously with me. I have not been a patient ever since I have been here.

Q. What were you before?—A. I was appointed a nurse here. I was, about seven months on the nurse list. Then I was taken sick with this scrofula, as the doctor calls it, and I was discharged from nurse and put down as a patient in the ward.

Q. Is Dr. Purvis attentive to other patients besides yourself?—A. O, yes, sir. He has the whole ward, you know. I mean he has been good to me; he has always acted courteously to me as though he thought a good deal of me, or something.

Q. Does he see that you have all necessary food?—A. Yes, sir. Recently, since the investigation, every thing has been very nice.

Q. What was there five months ago that you did not get in the way of extra food, if you needed it?—A. Four or five months ago, before this investigation, it was very bad down at the dining-room. There was scarcely any meat besides bones, and the bread was sour part of the time, and the corn-bread badly made up.

Q. You can make any other statement you wish.—A. Well, sir, I do not know of anything more that I can tell now. Of course, I am sick, and I do not feel like talking.

LUCIUS HARCOMB (colored) sworn and examined.

By Mr. SARGENT:

Question. What position do you hold here?—Answer. I take care of the sick.

Q. Are you a day nurse?—A. Yes, sir.

Q. In what ward?—A. Ward No. 2.

Q. What kind of care do you take of the sick?—A. I try to do the best I can for them.

Q. Are you attentive in the discharge of your duties?—A. I do try, sir.

Q. Do you have any patients in separate rooms?—A. Not now.

Q. Have you had at any time?—A. We have had one room we kept bad patients in.

Q. You mean very sick?—A. Yes, sir.

Q. You had charge of them with the others?—A. I had.

Q. Did you attend to the patients in that room as much as to others?—A. I did just the same.

Q. Did you ever neglect them for eighteen or twenty hours?—A. No, sir. The only time I was out the doctor got me to go and clean his house, about a day in all, I suppose.

Q. Doctor who?—A. Dr. Glennan.

Q. When there you always attended to those patients?—A. I did. I am walking around all day long, seeing to one first and then another.

Q. Mr. Johnson states, as I understood him, that you said that you left the patients in that room for eighteen or twenty hours, and that they cried in distress and you would go nowhere near them. Is that correct?—A. It is not so.

Q. Is there any foundation for such a story?—A. The other nurse who is with me will testify to the same thing as I do. It has not been so since I have been here.

Q. Have you ever said to Mr. Johnson anything of that kind?—A. I never have, and I never heard about it anyhow, until the committee was up there the other week. I must not tell anything more than is so, I suppose.

Q. Of course not.—A. I was astonished myself, when I heard that, because such a thing had not happened.

Q. Do you ever have persons die in your ward?—A. Yes, sir.

Q. How many deaths have occurred there during the last six months?—A. I cannot tell, really.

Q. Give it as nearly as you can.—A. Six, I suppose, or about that. I would not like to confine myself to any particular number.

Q. What do you do with patients when they die—after they are dead?—A. Dress them and take them out to the dead-house.

Q. Do you wash them before dressing them?—A. I do.

Q. In the ward?—A. Yes, sir; I take them off the bed.

Q. What is your method of doing it? Do you bring in tubs?—A. A bucket generally, and sponge them off.

Q. Sponge them off thoroughly?—A. Yes, sir.

Q. How long does it generally take to do that?—A. About ten or fifteen minutes.

Q. Then what do you clothe them with?—A. Generally I put on the old clothing.

Q. Is that clothing clean that you put on them; has it been cleaned?—A. Not all. I generally put on clean underclothing. We have been generally putting on their old clothes, when they have any.

Q. You put on clean underclothing and then the clothing that they wore when they came to the hospital?—A. Yes, sir. Generally we have the underclothing and top clothing washed when it is off; but sometimes a case may come in pretty late and die shortly after he gets in.

Q. And then the bodies are removed to the dead-house?—A. Yes, sir.

Q. Do the patients that come in bring vermin with them?—A. Yes, sir; a good many.

Q. What kind of vermin?—A. Bugs.

Q. Lice?—A. Yes, sir.

Q. Is it some trouble to keep down the vermin on that account?—A. No, sir; now it is not.

Q. Why not?—A. We wash them thoroughly; take all the clothes to the wash-house and have them washed.

By Mr. ALLISON:

Q. In the summer is it not more difficult?—A. In the summer sometimes we accidentally get some few among the clothing in the ward.

By Mr. SARGENT:

Q. Have you always washed them right along?—A. Yes, sir; I always wash every one who comes in; never fail if they come while I am on duty.

Q. Do you always have their clothes washed?—A. Yes, sir.

Q. Has that been the habit for years?—A. Yes, sir.

Q. How long have you been a nurse?—A. I think fifteen years. I think it is a little over that. I was nurse in the time of the war, and have been nursing ever since.

Q. You take the same care of patients now that you have all the time?—A. Yes, sir. Of course now, ever since the investigation, it is better, I will acknowledge.

Q. Is your conduct better? Do you behave any better since the investigation?—A. No, sir; I am not speaking of that.

Q. I am speaking of your manner of washing and taking care of the patients.—A. That is my regular thing that I have been doing all the time.

Q. Do you wash them any more thoroughly than you did before?—A. No, sir.

Q. Are their clothes washed any more thoroughly than before?—A. Not at all.

By Mr. EATON:

Q. Are the lice kept down better?—A. No, sir; I was talking about treatment.

By Mr. SARGENT:

Q. You are an officer of the institution, and I am asking about your treatment?—A. That is just the same.

Q. Then, as far as everything relating to cleanliness is concerned, it is just the same as it was?—A. Yes, sir.

Q. It was just as good before the investigation as it is now?—A. O, yes, sir.

By Mr. ALLISON:

Q. You did your duty just as well before as you do now?—A. I did.

By Mr. SARGENT:

Q. Was your ward any cleaner before the investigation than it is now?—A. No, sir; I keep my ward just the same as I have always.

Q. Are you neglectful about your water-closets?—A. No, sir.

Q. What do you do about them?—A. I wash them out every morning. Sometimes I used to do it twice a day.

Q. Did you do that last summer?—A. Yes, sir.

Q. And before that?—A. Yes, sir; I always keep everything clean.

Q. Do the doctors inspect the hospital now?—A. Yes, sir; they go around every Saturday.

Q. Did they formerly go around every Saturday?—A. Yes, sir.

Q. Doing the same things they do now?—A. Yes, sir.

Q. Do the doctors ever look at the water-closets?—A. Yes, sir; they go in there.

Q. Did they use to do so?—A. Yes, sir.

Q. Just the same?—A. Yes, sir.

By Mr. ALLISON:

Q. Do you keep the water-closet better now than before or just the same?—A. We can keep it better for one reason, because we have one of these big urinals stationary. Instead of wetting the seat, they use that now.

By Mr. SARGENT:

Q. That enables you to keep it somewhat cleaner?—A. Yes, sir. Before that I used to have to mop and clean it very often. When they went to urinate, it would fall on the seat and on the floor. Now, we do not have any of that.

Q. Do the doctors attend to their patients that are sick? Do they come when called?—A. Yes, sir; they do now.

Q. When did they not?—A. I thought the doctor was a little careless some time ago.

Q. What doctor?—A. Dr. Purvis.

Q. What instance do you know of that he was called and did not come?—A. I do not say he was called and did not come.

Q. What do you refer to?—A. One man used to sit up there who had a very bad throat. His name was Wilmer. It seemed that he neglected him some. He used to grumble some to me that he did.

Q. Did the doctor see this man every day?—A. He used to come through every day.

Q. Did the doctor attend to him—prescribe for him?—A. He did not do anything for his throat for a couple of days or so.

Q. Did he give him any medicines?—A. He mopped it like on a Friday and on Saturday he died.

Q. What did he do?—A. He mopped his throat—mopped it out.

Q. Had he prescribed any medicine for him at any time?—A. He tells me that he had, but I do not remember that he had.

Q. What else do you refer to in that connection?—A. There was one old gentleman named McGuire who had one arm. I think he treated him a little rougher than he should have done.

Q. What did he do?—A. He used to come around and crack him over his head and get him very fretful.

Q. Crack him over the head with what?—A. A little stick. He got the old man fretting. I think it did not become a doctor to do that.

Q. What kind of a stick was it?—A. A little cane.

Q. A cane that he carried in his hand?—A. No, sir; a cane that would be lying about on the bed in the ward.

Q. How long a cane?—A. I suppose as long as that one sitting there [pointing to a short walking-stick].

Q. What was the matter with the man?—A. He had a limb taken off. In fact, he had but one arm and one leg and one ear. One morning he came in and called the man and said something to him about coming away from the window. The old man did not come. He ordered the nurse to take him away. He went to take him away, and he jerked him backward. The old man was complaining some time; he hurt his back.

Q. This man was in the window?—A. Yes, sir; sitting at the window.

Q. And the doctor told him to come away from there?—A. Yes, sir.

Q. What reason did he give for him coming away?—A. He was talking to some person outside the ward.

Q. Talking about what?—A. I do not know what he was talking about.

Q. Was that contrary to the rules?—A. He told him to come away from the window, and he did not do it.

Q. Was it contrary to the rules?—A. It was.

Q. The man was violating the rules and the doctor told him to come away. He did not come, and he pulled him backward?—A. Yes, sir; of course he had no limbs to catch himself by, and he said it hurt his back.

Q. Did he fall on the floor?—A. Yes, sir.

Q. After the fall on the floor, what was done?—A. He made me take him out and take him down to the far ward.

Q. Was this the occasion that he tapped him on the head with his stick?—A. That was on the same day; but generally he used to come through and do it, and the old man got a sort of cross at the doctor. He said, "I am going to move away before the doctor comes to hit me with that stick." That was the reason he went to the window, he told me.

Q. Did the doctor hurt him when he touched him on the head with the stick?—A. He told me he did. His head was bald.

Q. Did he strike much?—A. Just tapped him.

Q. What do you mean by "tapped"? Did he assault the man and hurt him by striking him with a stick, apparently, or not?—A. He told me he done it.

By Mr. EATON:

Q. Here is the stick you pointed to just now. Did he pick it up laughingly and smilingly like this [indicating]? Is that what you mean?—A. No; he did not come down that way.

Q. He did this [using the stick gently]?—A. Yes.

By Mr. SARGENT:

Q. You mean that he touched him gently on the head with the stick, which irritated the old gentleman?—A. Yes, sir; that was it. He complained of his back after that.

Q. Is there any other statement you wish to make?—A. No, sir.

By Mr. EATON:

Q. Where do you get your meals; in the mess-room?—A. Yes, sir.

Q. With the other nurses?—A. Yes, sir.

Q. With the patients?—A. Down in the mess-room; yes, sir.

Q. Do you have good food?—A. We have pretty good food now.

Q. You put an emphasis on "now." Did you have good food five years ago?—A. Yes, sir; better than we have had sometimes.

Q. Confine yourself to answering the question. Did you five years ago have good food in the mess room, or do not you remember?—A. I think, sir, I must give you a true statement. I believe that our diet is a kind of cut-down.

Q. Five years ago?—A. No, not five years ago.

Q. Did you have good provisions five years ago?—A. I had; one reason why was because I used to draw my rations, and I used to have them cooked to suit myself.

Q. How about it three years ago?—A. It was just tolerable; I could not brag on it.

Q. How was it two years ago?—A. Still getting worse before the investigation.

Q. How was it one year ago?—A. Pretty bad, I tell you; the meat was poor.

Q. How was it last summer?—A. Last summer we had some pretty bad meat also.

Q. Beef?—A. Yes, sir.

Q. What was the matter with it?—A. Poor beef.

Q. What do you mean by "poor"?—A. Beef that I call poor beef, stringy, bad beef.

Q. Do you mean occasionally or all the time?—A. Occasionally along; I do not say all the time.

Q. But occasionally there would be poor beef?—A. Yes, sir.

Q. Was the bread good and sweet?—A. Sometimes, and sometimes bad.

Q. When you say it was "sometimes bad," do you mean that occasionally it was bad?—A. Yes, sir; that is the point.

Q. Did you have good corn-bread?—A. I do not know much about the corn-bread; I hardly ever eat any.

Q. Did you have good hominy?—A. The hominy was good.

Q. Always?—A. Yes, sir.

Q. How about the rice; you had rice cooked, I suppose?—Yes; they had rice.

Q. Was that good?—A. I do not eat any.

Q. Therefore you do not know about it; but universally the hominy has been good?—A. Yes, sir; I have not seen anything the matter with it.

Q. How about the pork?—A. Well, sometimes that was tolerable, sometimes bad.

Q. When you say "sometimes bad," what do you mean?—A. Sometimes good pork and sometimes bad. Last summer we had some two or three times bad.

Q. Is the corned beef good?—A. We do not seem to have much of it. We have had it sometimes.

Q. Has it been good when you have had it?—A. That was tolerably good as far as I can say.

Q. I suppose you have a fish-day?—A. Yes, sir; but to tell you the truth, I am not a good judge of fish. I hear them grumbling about it, but I am not much of a judge about fish. I cannot say anything only what I know.

By Mr. ALLISON:

Q. Are you a cook yourself?—A. No, sir.

Q. You said a while ago that five years ago you drew your rations and cooked them yourself?—A. No; my wife cooked them.

Q. You think the cooking is not as good as you had five years ago when your wife cooked?—A. I just tell you, gentlemen, I believe, if I must come to the right thing, that the cooking is a great thing.

Q. That is what I want to get at, whether or not the raw material is bad, or whether some of the cooks may not make mistakes; which is it, in your opinion, chiefly?—A. One party would say it was the cooking—nothing like good cooks. Part of the grumbling is that the cooking is bad.

Q. Have they been changing cooks?—A. I have eaten enough to know something about cooking; there are the same cooks they have had.

By Mr. SARGENT:

Q. What was the breakfast a year ago; what did you get?—A. Sometimes beef, sometimes pork; mostly beef for breakfast.

Q. Take last June and July; what did you get for breakfast then?—A. Of course it was beef one morning, and fish sometimes once or twice in the week in the morning.

Q. Bread?—A. Yes, sir.

Q. Hominy?—A. Yes, sir.

Q. Rice?—A. Hardly ever had rice for breakfast.

Q. Tea and coffee?—A. Yes, sir.

Q. What for dinner?—A. Chickens, some days, and beef.

Q. With bread and vegetables?—A. Yes, sir; sometimes.

Q. Was there any dinner that you did not have bread with?—A. No, sir; we had bread all the time.

Q. Did you have as much bread as was wanted?—A. Yes, sir; no fault in not having bread, so far as I know.

Q. Did patients complain that they did not have bread enough?—A. They always had bread enough.

Q. How much bread did they have?—A. Two slices, generally.

Q. How much would that amount to; a quarter of a loaf or half a loaf?—A. I think about a quarter of a loaf.

Q. Two slices?—A. Two slices; yes, sir.

Q. Suppose anybody wanted any more bread; would he get it?—A. Yes, sir.

Q. No trouble about that?—A. No, sir.

Q. What vegetables did you have for dinner?—A. In the ward we had potatoes.

Q. What size were the potatoes and what quality and how were they cooked?—A. Generally mashed potatoes.

Q. Were they sometimes in the jackets?—A. Not in the ward; they have been in the dining-room.

Q. I am speaking of the mess-table specially.—A. They generally have them in the jackets there.

Q. How many potatoes to a man?—A. Sometimes two, sometimes one, according to the size.

Q. Some good-sized ones?—A. Yes, sir.

Q. In the mess-room, was there any trouble about their not having bread enough?—A. I do not know much about the mess-room. I am generally in the ward at the eating-time of my patients.

Q. Where do you eat yourself?—A. I eat down there; they eat before I do.

Q. Do you have the same food that the patients do in the mess-room?—A. Pretty much.

By Mr. ALLISON:

Q. Do you hear any complaints there as you go down about a lack of bread?—A. I have heard some.

By Mr. SARGENT:

Q. How much bread do they have? You have been there sometimes in the mess-room?—A. Yes, sir; they generally have about two slices when I go down there.

Q. Suppose they want more bread, can they get?—A. I suppose so. I do not know of any objection.

Q. Do you hear any complain that they cannot get it when they want it?—A. I did hear one of the patients get after the doctor one morning.

Q. Who was that?—A. A white gentleman who had been here. He said to the doctor, "Suppose I was to see a Congressman and he asked me why I looked so bad," and the doctor says, "Well, you could tell him that we could have so many more." He said they got enough, and I believe it passed off in that way.

Q. Did this man ask for more bread and not get it?—A. He told me he spoke to Dr. Glennan after he came up.

Q. What else do they have down there in the mess-room for breakfast?—A. For breakfast they have fish sometimes.

Q. Do they have meat?—A. Yes, sir; they have meat.

Q. And hominy?—A. Hominy, I think.

Q. And sometimes rice?—A. I do not think they have rice.

Q. Are you sure they ever had meat at breakfast in the mess-room?—A. They have been having it occasionally of late.

Q. I speak of last June and July.—A. Now, I do not think I can say about that.

Q. Why not? You ate down there.—A. We had meat, of course.

Q. Did you have the same as the patients?—A. The same as they did upstairs; yes, sir. I thought you were asking about the patients that went down to the mess.

Q. I speak about the patients who eat in the mess-room. I want to know if you are willing to swear that they did not have meat down there.—A. Now, I cannot, exactly.

By Mr. ALLISON:

Q. Had you meat in the mess-room during that time?—A. I did.

By Mr. SARGENT:

Q. Did you have the same as the patients down there?—A. I think I did.

Q. Mr. Potter thinks they did not have any meat in the mess-room—we want to know whether they did or not—in June, July, and August last?—A. Gentlemen, to tell you the truth, I am not sure about that.

Q. But you are sure you did?—A. I know I did, because I generally have all I see patients upstairs have. If I knew it I would tell you.

Q. You think you had the same as the patients down in the mess-room?—A. I think I did.

Q. Do you know Mr. Potter?—A. Yes, sir.

Q. Did you help him change his bed when he first came or shortly after he got here?—A. How do you mean?

Q. The mattress that he slept on?—A. Yes, sir; we changed them.

Q. You say you changed them; or when a patient comes do you give him a clean bed and mattress?—A. No, sir; I generally change the sheets, blankets, &c.

Q. How about the mattresses?—A. We do not change them except when a person dies or anything like that.

Q. Was Mr. Potter's mattress in a very bad condition when he called your attention to it?—A. Yes, sir; it was an old one, and I took it out, of course.

Q. How happens it that you let it remain there in a bad condition?—A. The doctors had some made up new and we fitted our ward up with them.

Q. And you had not got around to him yet?—A. No, sir.

Q. But you were doing it?—A. Yes, sir.

Q. Would you have done it if your attention had not been called to it?—A. Of course. Generally I did it always.

Q. Did you find a thousand bed-bugs in that bed?—A. No, sir; there were some.

Q. How many do you think when you took it down into the yard?—A. Some few in it.

Q. Many dozen?—A. Whenever they complained of bed-bugs I cleaned them.

Q. He complained that there were bed-bugs, and you changed the bed for him, and you found a few in it?—A. There was a few in it.

Q. Was Mr. Potter himself free from vermin when he came?—A. I will not be certain whether he had any on him or not.

By Mr. EATON:

Q. Did you wash him?—A. I did.

Q. Can you not tell?—A. He was pretty dirty, but I will not be sure he had any on him. I never saw any on his clothes.

By Mr. SARGENT:

Q. Was he ragged and dirty, or simply dirty in his person?—A. Dirty. He was not ragged. He was dirty. His clothes were dirty.

OWEN CHASE (colored) sworn and examined.

By Mr. SARGENT:

Question. What position have you in this hospital?—Answer. Nurse.

Q. How long have you been a nurse?—A. I cannot tell you how many years. I have been a nurse ever since the old hospital—nearly a year before they moved from the old hospital here.

Q. What ward are you in?—A. Ward number 5.

Q. How long have you had charge of that ward—several years?—A. Yes, sir.

Q. Is that a man's ward?—A. Yes, sir.

Q. Are you a day-nurse or a night-nurse?—A. Both.

Q. Do you mean that you work twenty-four hours in the day?—A. I work all day. I do not work all night. They have not had but one nurse in there now for three years this June coming, until the 16th of this month, when they put on another nurse. That was last Saturday or Friday, I do not know which.

Q. How does the number of patients in your ward compare with what it was two or three years ago?—A. They are about the same now that they were four or five years ago. I never had less than from twenty-two to twenty-five, and from that up to thirty. I have had as high as thirty. I have even thirty now, since they put on one patient for a nurse. I have had more, and I have had less.

Q. You do not know whether you are a day-nurse or a night-nurse?—A. We have no night-nurse; only, of course, if there is anything needed, I am always there every night.

By Mr. ALLISON:

Q. Do you sleep in the ward?—A. Yes, sir.

By Mr. SARGENT:

Q. Then you are a day-nurse only, but you attend to patients at night if it is necessary to do so?—A. Yes, sir.

By Mr. ALLISON:

Q. Are the persons in your ward very sick patients?—A. No; they are old, worn-out men, and lunatics, and boys.

Q. They all sleep nights, as well as yourself?—A. They sleep; but sometimes they have fits and fall out of bed, and I attend to them.

By Mr. SARGENT:

Q. You do not have to give regular medicines?—A. Whenever any of them are sick.

Q. To how many of those in the ward at the present time do you have to give medicines regularly?—A. Only two at the present time.

Q. How often do you give them medicines?—A. One a teaspoonful three times a day, and the other a tablespoonful three times a day.

Q. And at night?—A. Yes, sir.

Q. How long have you had these patients?—A. One of these, the old man, came in here last summer; and the young one, the one that takes the teaspoonful, here ever since the hospital; he came from the other side. He just has fits and gets sick from them.

Q. During the last year have you given them this medicine three times a day, and at night?—A. No, sir; not regularly, only when he has fits. This old man has just been taken sick.

Q. How lately?—A. He was just taken sick here this week.

Q. You now have a person on at night?—A. Yes, sir; and then, any other time when any of the old men are sick, of course I have to attend to the medicine just the same way.

Q. Do you keep your ward clean?—A. Yes, sir.

Q. What do you do to keep it clean?—A. I scrub it every other day, and wash the ceiling, clean the beds, &c.

Q. Every other day?—A. I do not clean the beds every other day, but scrub the floors every other day; and the walls and ceilings I wash three or four times a year.

Q. What steps do you take to keep vermin out?—A. Here of late we have some kind of dose—I do not know what kind it is.

Q. Hart's roach-powder, is it?—A. It kills the roaches considerably, but I have some few in there now. Of these other vermin, of course we have some few, and bed-bugs, too; that you find everywhere; but the other vermin, I have had a good many of them, but I am entirely clear of them now. I have not seen one of them in my ward for the last three months, or it is very near three months since I saw one of that kind there.

Q. Do you try any harder to keep it clean now than you did three months ago?—A. In fact I am more able now than I really was three months ago. A little over a year ago I was taken down with the neuralgia in the head, and rheumatism, and I could not do anything at all for some considerable time. I was in bed; could not turn over, scarcely able to feed myself; and then the patients had not any nurse. Patients waited on patients, and that was the way my ward went; patients coming in with vemin on them, and nobody to take charge, only patients taking care of patients, as a matter of course that is the way my ward got full of vermin. It was a long time before I got so as I could do anything much; I was knocking about and taking care of myself the best I could. I took medicine and rubbed myself until I got up; and then the stronger I got the more able I was to work; and so when I got up strong and good, I just went to work and worked regularly through the day until I got them clear.

Q. How was it before you were taken sick? Did you have your ward pretty clean?—A. The ward was pretty clean with the exception of sometimes some one would come in that had vermin on them, and they would sit down before I would get a chance to clean them with hot water and put on clean clothes, and they would drop some on the floor.

Q. And is that the case now, or is liable to be the case at any time?—A. That is liable to be the case at any time.

Q. The persons brought into the hospital come from the hovels and the poor places, have no money, and are wretched?—A. They have very little clothes, and some of them are very dirty.

Q. And it is a constant fight to keep things clean, I suppose?—A.

Yes, sir; it is. It has not been kept as bad with me the last week past since they put on another nurse; of course it relieves me some now.

Q. Did you complain somewhat of overwork, of being too hard worked? —A. Yes, sir; I have been complaining of that for some time.

Q. What pay do you get?—A. Fifteen dollars a month.

Q. And your board?—A. Yes, sir.

Q. Where do you eat?—A. I eat at the table; the nurses all eat at one table. We do not eat at the patients' table. The nurses have a table.

Q. Do you have the same food as the patients in the mess room?—A. If anything, our food is a little more magnificent about it than it is about the patients' at the table. The patients in my ward and the nurses, that is the patients I have to carry the diet to, have it very good now. They have plenty of it, and they have that which is very good now.

Q. When did they not?—A. Since this investigation they have been having it better than they really did before.

Q. What is the difference?—A. The difference is that the meat sometimes, particularly through the summer, was tainted and bad, and the hominy not done, and a great part of the time the rice was very indifferent, and the mackerel were sometimes short, sometimes not cooked as it might have been.

Q. Do you have mackerel in the wards?—A. Yes, sir.

Q. How was it in the winter; was the meat good in the winter?—A. Yes, sir.

Q. Do you mean this winter, or last winter a year ago?—A. We did not have any tainted meat then at all along through the winter.

Q. Was the meat good last winter?—A. To the best of my recollection I do not know that we had any bad meat at all last winter.

Q. Were they heads and tails that you got, or was it regular beef?—A. I do not know about the tails; I cannot say anything about that; but we got beef heads and jaws, or something of the sort connected with the head.

Q. Cooked up?—A. Yes, sir.

Q. How often did you have beef jaws?—A. I cannot say how often.

Q. Why not?—A. Well, I do not recollect the number of times.

Q. Was it often?—A. Well, it was occasionally.

Q. Did you get any on your plate?—A. I did sometimes; yes, sir.

Q. How often? Once a week?—A. No, sir; not as often as that.

Q. Once a month?—A. Maybe once in two weeks, or something like that.

Q. You got a piece of the jaw?—A. Yes, sir; a piece of the jaw.

Q. How do you know it was a piece of a jaw? Did it have the teeth?—A. The inside of a beef's jaw has a kind of rough something, almost like a beef's tongue. Sometimes I would get hold of a piece of that.

Q. Was it beef's tongue you were speaking of?—A. No, sir; I was speaking of beef's jaw, and I was coming to the tongue next.

Q. I want to understand about the jaw. Remember you are under oath, and I want you to state about this beef's jaw you got, and how you knew it was beef's jaw.—A. Here is what I call beef's jaw; what comes off under here (indicating).

By Mr. EATON:

Q. That is the lower jaw?—A. That is what I call jaw. A piece off that I could tell very easily.

By Mr. SARGENT:

Q. How?—A. By this rough part being inside here. I know exactly how it is inside of a cow's mouth. I got a piece of that several times. I cannot say how many, but several times I got a piece of that.

Q. Did you ever see any part of a head?—A. No, sir; I could not say that I saw any other part of a head.

Q. Now, tell me what you mean by your food being more magnificent that the others? Is this an evidence of the magnificence?—A. What I mean is that what the nurses have on the table has a little more magnificence than what is on the other table.

Q. Why? How?—A. Well, it is all cooked very well, but ours, of course, are a little finer and a little more magnificently cooked.

Q. How? Is it not all cooked at the same time and in the same kettles?—A. That I cannot say. I am not in there to see.

Q. Then explain.—A. Sometimes we have boiled ham for breakfast for the patients, and ours is very often fried—the cold ham warmed up, you know. The patients have cold boiled ham when they have ham for breakfast.

Q. Do the patients in the mess-room have ham for breakfast, and how long have they had it?—A. I cannot say how long, but I know they have it sometimes. I am not at the patients' table.

Q. You are drawing a comparison between the two, and I want to know how correct your knowledge is. Did they have ham a year ago?—A. The patients?

By Mr. ALLISON:

Q. Or Yourself?—A. Sometimes; yes, sir.

By Mr. SARGENT:

Q. Or the patients?—A. I know in winter-time, it was not short then, but I mean to say that through the summer, last summer the ham was short sometimes. Sometimes it was very good.

Q. But I want to know if you had it, and the patients had it?—A. Well, my patients had it; but whether they had it on the table or not, I do not know, because I was not in there to know.

Q. Did they have beef on the patients' table at breakfast?—A. Yes, sir: sometimes they have beef.

Q. I am not speaking about now, but I mean then.—A. A Year ago?

Q. A year or two years ago.—A. They had beef for dinner certainly.

Q. I am speaking about breakfast.—A. Not for breakfast.

Q. Did they have any meat for breakfast a year or two ago?—A. No, sir.

Q. You swear positively to that?—A. If they did, I did not see it.

Q. Did you have it?—A. We had it; the nurses had it.

Q. And you know that you had what they did not have?—A. Yes, sir.

Q. A year or two ago?—A. Yes, sir. I know that then the patients that came to the mess-room did not have meat for breakfast. They had meat for dinner.

Q. And they had no meat of any kind for breakfast and no fish?—A. For breakfast? No, I do not think they had. I will not be real certain about the fish, but I know they did not have meat.

Q. What did they have for breakfast?—A. They had rice and molasses, coffee and bread.

Q. You say they have now meat—ham?—A. They have meat now for breakfast and for dinner.

Q. When did they commence first to have meat for breakfast? Fix

the date?—A. To the very best of my knowledge they commenced it just about——

Q. I want the date, the month.—A. Well, now, I do not know what month it was that the investigation took place.

Q. I am not talking about the investigation. I want to know just the time when they began having meat for breakfast in this hospital.—A. Well, now, I could not tell the month, but all the way I can come at this point is just about the time that that commenced going on, but I really do not know whether it was September or October.

Q. Then you will say that before September at the mess-table of the patients they had no meat?—A. Yes, sir.

Q. And you say that since that time they have had it?—A. Yes, sir.

Q. Who is the doctor of your ward?—A. Dr. Glennan.

Q. Is he attentive to the patients?—A. Yes, sir.

Q. Has he always been?—A. Always has been ever since I have been under him; always very attentive to the patients.

Q. Is he kind to them?—A. Yes, sir; he is very kind to them..

Q. Does he inspect the ward?—A. Yes, sir.

Q. How often?—A. Every day.

Q. Has that always been his habit?—A. Yes, sir; ever since he had that ward in charge.

Q. How long has he had the ward in charge?—A. Ever since last July.

Q. Does he inspect the water-closet as well?—A. Yes, sir.

Q. How do you keep your water-closet?—A. I keep it now, since I have got able, very nicely.

By Mr. EATON:

Q. You did before you were sick, I suppose?—A. Yes, sir; before I was sick, but I say now it fell back when I was sick.

By Mr. SARGENT:

Q. With the exception of the time you were sick has it been clean or unclean?—A. It was not as clean before that as it has been since.

Q. Did you neglect it?—A. Yes, sir; I did sometimes, because I could not possibly help it; I had so much to attend to.

Q. What, with thirty old persons, only two of whom were sick so as to have to take medicine?—A. But then I have fitified ones, and they are sometimes one place and sometimes another, and it is a heavy burden on one person's hands to look after all these things, attend to them, and keep them in their place.

Q. What condition was your water-closet in when you neglected it?—A. The patients sometimes would nasty on the seats, sometimes right down on the floor, and they would make water right on the seats.

Q. When you found that out you would go and clean it?—A. Yes, sir.

Q. Invariably?—A. Yes, sir; whenever I found it out.

Q. Would you go to look and see whether it was in good condition or not?—A. Yes, sir; I did not do it all the time; I did sometimes; because sometimes I was actually so busy about other things that I did not think of it. I sometimes would go round there just for myself and find out it was in a bad condition, and I would then get my broom and water and mop and clean it.

Q. Do your patients still dirty the seat and the floor as they used to do?—A. They do it now, some of them.

Q. They are poor, helpless, demented creatures, are they not?—A. Yes, sir; a great many of them are.

By Mr. ALLISON:

Q. Are you able to keep the persons of these people clean?—A. Yes, sir; I keep them clean.

By Mr. SARGENT:

Q. Do you ever have any deaths in your ward?—A. O, yes, sir.

Q. What do you do with a person when he dies?—A. I wash him and fix him up as genteely as I can, and get the stretcher and carry him to the dead-house.

Q. Do you wash him in the ward?—A. Yes, sir.

Q. What clothes do you put on him?—A. If he has any clothes of his own I put on his own clothes if they are good; if not, I put the government clothes on.

Q. Do you put clean underclothes on him?—A. Yes, sir.

WESLEY LUCAS (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you a patient in this hospital?—Answer. Yes, sir.

Q. How long have you been in it?—A. I have been in now going on twelve months.

Q. What ward are you in?—A. Chase's ward.

Q. Is that No. 5?—A. Yes, sir.

Q. What is your disease?—A. When I came here I had fits of the chills. When I first came in here I had sore feet.

Q. What doctor takes care of you?—A. Dr. Glennan has been attending me since I have been here.

Q. Have you been in his ward all the time?—A. Yes, sir; in Chase's ward all the time.

Q. Does Mr. Glennan take good care of you?—A. Well, so far.

Q. What do you mean by "so far"?—A. Well, he has been attending a little better now than he used to.

Q. Dr. Glennan attends to you now better than he used to?—A. Yes, sir.

Q. In what respect?—A. Things that I needed at the first offstart I could not get until lately; and now lately I can get almost anything I call for.

Q. What do you call for?—A. Sometimes I call for some clothing and some shoes.

Q. They give you clothing and shoes now, do they?—A. Yes, sir.

Q. Anything else?—A. I do not call for anything but I get it. I did ask them for some money for doing jobs round here, but could get none.

Q. Jobs around the hospital?—A. Yes, sir.

Q. They would not pay you any money for that?—A. No, sir.

Q. Did you get what you wanted to eat?—A. Yes, sir.

Q. Where do you eat?—A. In the dining-room.

Q. What do you get to eat?—A. Friday we have fish and potatoes and bread.

Q. For breakfast?—A. We do not have any fish for breakfast, but we sometimes get cod-fish on Friday.

Q. For breakfast?—A. Yes, sir.

Q. Do you get any meat for breakfast?—A. No, sir; very seldom.

Q. Do you get any ham for breakfast?—A. No, sir.

By Mr. ALLISON:

Q. What do you get?—A. We have hominy some mornings, and sometimes have rice.

By Mr. SARGENT:

Q. Do you have bread?—A. Yes, sir.

Q. How much bread do you have?—A. I get two slices of bread now.

Q. As much bread as you want?—A. Yes, sir.

Q. Did you always get two slices of bread?—A. I did not use to have two slices of bread until here lately. They have lately taken it up.

Q. Did you use to have one slice?—A. Yes, sir.

Q. Was the one slice any larger then than one of the two slices is now?—A. No, just the same thing.

Q. You get twice as much bread now as you did then?—A. Yes, sir.

Q. Did you use to ask for any more bread?—A. Yes, sir.

Q. Whom did you ask for more bread?—A. The waiter-man.

Q. Did the waiter-man tell you he would not let you have it?—A. He would give only what he was allowed to give.

Q. Who was the waiter-man?—A. George Gray was one of them, and they got John Lewis there for waiter-man.

Q. Was he the one who would not give you any more?—A. He has just lately come in.

Q. Who is the one who would not give you any more?—A. George Gray was the head one.

Q. You asked George Gray for more bread and he would not give it to you?—A. He would give as far as the orders. The orders were but one slice of bread.

Q. And he would not give you any more?—A. No, sir.

By Mr. ALLISON:

Q. How large were these slices of bread?—A. A thin slice.

Q. As thick as your hand?—A. About as wide as my hand.

By Mr. SARGENT:

Q. How many slices to a loaf?—A. I cannot tell you, but we get two slices now.

Q. How much of a loaf was the one slice when you used to get it?—A. I do not know now.

Q. A quarter of a loaf?—A. They cut up a whole loaf.

Q. Into four pieces?—A. Six pieces.

Q. How many do they cut it up into now?—A. The same now they did at first.

Q. And they give you two pieces instead of one?—A. Yes, sir.

By Mr. ALLISON:

Q. Do you eat it all?—A. Yes, sir, every bit.

By Mr. EATON:

Q. Could you stand another piece?—A. Yes, sir.

Q. You do not get meat enough now?—A. Not quite enough, but I have to put up with what I get.

By Mr. SARGENT:

Q. Do you get some hominy with it?—A. We get hominy in the morning.

Q. Nothing else?—A. We get nothing but hominy some mornings, and coffee and bread.

Q. Other mornings?—A. Rice some mornings.

By Mr. ALLISON:

Q. Do you get all the hominy you want?—A. No, sir.

By Mr. SARGENT:

Q. Do you get all the rice you want now?—A. No, not often.

Q. You do not get enough to eat now?—A. Not enough, but I put up with what I get now.

By Mr. EATON:

Q. You did before, did you not?—A. I say I have to put up with what I get.

Q. Do you get coffee enough?—A. No, sir.

Q. Is there any one thing you have enough of?—A. I do not get enough of anything, but then I have to put up with what I get.

By Mr. SARGENT:

Q. Do you take any medicine?—A. Yes, sir; I have been taking medicine.

Q. What medicine?—A. I do not know what kind of medicine it is.

Q. How often do you take it?—A. I have not taken any now since I got better for some time.

By Mr. ALLISON:

Q. Do you get all the medicine you want?—A. Yes, sir; when I have cause for it.

By Mr. SARGENT:

Q. Were you present at the time some bones were dug up near by the dead-house?—A. Yes, sir.

Q. State what you saw there.—A. All I can state is that they were the same bones I helped to put away.

Q. What bones did you help put away?—A. Some were put up in the building that I helped to carry there.

Q. Whom did you carry them for?—A. For Mr. Banks.

Q. Do you know whom Banks carried them for?—A. No, sir.

Q. What did you help him carry?—A. I helped him carry one body and put it in the dead-house and then I helped him carry some more, one stuff and another, at night.

Q. What did you help him carry?—A. It was entrails, and I cannot tell you what all the other parts were; but it was in barrels, and I helped to carry in the barrels.

Q. What did you do with it?—A. Buried it.

Q. Where?—A. One right by the wood-pile and the other next to the Seventh-street entrance.

Q. How many barrels?—A. I carried three barrels there.

Q. When was that?—A. I cannot tell you exactly what month it was.

Q. Did you empty the matter out of the barrels?—A. Yes, sir.

Q. How deep was the hole you dug?—A. I reckon about four feet, as near as I can come at it.

Q. And you covered it up?—A. Yes, sir.

Q. You did that on two occasions?—A. Yes, sir.

Q. Has that been dug up since?—A. I understand it was taken up once. I did not go back there when they were taking it up.

Q. Were the barrels full?—A. Pretty near full. They were not top full.

Q. Were they headed up?—A. No, sir.

Q. Where did you take them from?—A. I took the barrels out of the basement.

Q. Where were they buried?—A. All of them were buried at the same place that I carried out of the basement, excepting the body.

The body I helped to put in the dead-house. I do not know what they did with that.

Q. That was a whole body, was it?—A. Yes, sir.

Q. Do you know what they do with the bodies of the patients who die in the hospital?—A. No, sir.

Q. You never have had anything to do with carrying them to the dead-house?—A. No, sir.

DANIEL REED (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you connected with this institution?—Answer. Yes, sir.

Q. What do you do?—A. I am a teamster.

Q. Driver?—A. Yes, sir.

Q. What do you carry?—A. I haul groceries and bread and anything that is needful for the hospital.

Q. Do you bring the meats?—A. No, sir; I do not haul the meats.

Q. Do you have charge of the feed?—A. Yes, sir.

Q. How many horses are kept?—A. Only two.

Q. You drive one; and who drives the other?—A. Robert Delany.

Q. Do you know anything about cows being kept on the grounds?—A. Yes, sir; there are cows here on the ground.

Q. Do those cows belong to the hospital?—A. No, sir.

Q. Are those cows fed out of the feed used for hospital purposes?—A. No, sir.

Q. Have they ever been fed out of that feed?—A. Never to my knowledge.

Q. You have never fed any feed out to them?—A. No.

Q. Do you have charge of the feed?—A. I do.

Q. And you would know if it was used for any other purposes, as for feeding cows?—A. I would know that, of course; certainly. I have charge of the feed.

Q. The cows you refer to are down on the lower lot?—A. Yes, sir; there is but one here now, at this time.

Q. Whom does that belong to?—A. Dr. Glennan.

Q. Does he find his own feed for his cow?—A. Yes, sir.

Q. And so far as any cows have ever been here, to your knowledge, the owners have fed them?—A. They have furnished feed for them.

Q. Is there any other statement you wish to make?—A. No, sir; there is no statement I have to make.

ROBERT DELANY (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you connected with the hospital?—Answer. Yes, sir.

Q. In what capacity?—A. Ambulance-driver.

Q. What do you haul?—A. I haul the sick and bury the dead, and do anything that comes to hand.

Q. Where are the dead carried?—A. To potters' field, unless their friends take them, and then I carry them to any other burial-ground they want.

Q. Do you have anything to do with the hauling of meats?—A. Sometimes.

Q. What kind of meat do you bring—quarters, or what parts of the animal?—A. I bring the roast, the big chuck pieces, sometimes; what they call the thigh.

Q. That is the round?—A. The round, yes; and breast of mutton and the hind legs of mutton, and corned-beef—the brisket.

Q. Do you ever bring heads?—A. I never brought any heads. One time I saw a heart in there but then George would not take it; he sent it back to the butcher.

Q. Do you ever bring any of the jaws of animals?—A. You mean the fleshy part. I have seen one or two of them, but he sent them back to the butcher.

Q. Is the meat that you bring good and fresh?—A. Yes, sir; I never saw anything out of the way.

Q. Do you have anything to do with the feed?—A. I have no charge of it. The other driver has charge of the feed.

Q. Have you ever known of the feed belonging to the government being used for private cows?—A. No, sir; I attend to Dr. Purvis's cow, and he bought all his feed for it for a while.

Q. Dr. Purvis himself bought the feed?—A. Yes, sir; and sometimes he gave me money to get it. Sometimes he would order it himself. That was the only cow I ever had anything to do with.

Q. You have seen one or two other cows about here?—A. Yes, sir.

Q. And they are not fed out of the government feed?—A. Not that I know of.

SATURDAY, *February* 23, 1878.

The subcommittee met at the Freedmen's Hospital.

JOHN J. CALVERT (white) sworn and examined.

By Mr. SARGENT:

Question. What position do you hold in this hospital?—Answer. Engineer.

Q. How long have you been here?—A. About 8 years, as near as I come to it.

Q. What is your compensation?—A. At the present time it is $60 a month.

Q. Was it more than that formerly?—A. Yes, sir.

Q. How much?—A. Ninety dollars. I got $60, and then $30 for my services as plumber and gas fitter doing all the repairs around the place. At this time they have cut that off.

Q. When was that discontinued?—A. The 30th of June. I have received but $60 a month since the 30th of June, 1877.

Q. Has any promise been made to you of the restoration of that addition in case of a change of Dr. Palmer from the hospital?—A. No, sir.

Q. Has any one promised you higher wages in case Dr. Palmer is removed?—A. No, sir; I have never had any conversation in regard to that.

Q. And has anybody ever promised you a better situation in case Dr. Palmer should be removed?—A. No, sir; if they had I should certainly have been away from here.

Q. Have you not said that was so?—A. I have not.

Q. To any one?—A. Not to any one.

Q. And it is not true?—A. It is not true.

Q. How much time each day are you employed necessarily?—A. I get here about seven o'clock in the morning, start my fires, fill my tanks around. There are three days in the week that I do the washing of the hospital.

Q. What do you mean by doing the washing of the hospital?—A. By steam.

Q. Furnishing the steam for it?—A. Yes, sir.

Q. Have you anything to do with the washing except to furnish the steam?—A. I run the engine and attend to the machinery during wash-days.

Q. How long does that take you?—A. Monday is what we call the very heavy wash-day; it takes me until twelve o'clock in the day to do that washing alone, from the time I get up steam. Tuesday I fill the tanks all around the place.

Q. How long does that take?—A couple of hours, I guess, in the morning, and a couple of hours in the afternoon. I generally leave my tanks all full at night, to be ready in case of fire.

Q. What do you do the rest of the day?—A. I pump water up the hill to the Howard University.

Q. How long does that take?—A. My orders are to pump an hour every day.

Q. Do you do that?—A. Yes, sir. Sometimes they complain a good deal, and when they complain, if they are out of water, I have to pump an additional time. I do it when there is a complaint made of there being a scarcity of water up there. Wednesday is wash-day; it takes to about eleven o'clock. I go through the same routine day by day.

Q. What do you do the rest of that Wednesday?—A. I fill the tanks, I pump water up the hill, and then attend to repairs, leakages, or anything of that kind around the place, whatever there is. I saw wood.

Q. Are you here every day?—A. Every day.

Q. All day long?—A. All day long.

Q. Where were you yesterday?—A. Yesterday I had permission to go to the temperance procession; I belong to the blue badge, and I asked permission before I started, after I had done my work.

Q. What time did you go?—A. I went, as near as I can judge, between nine and ten o'clock; I think that was the hour; I am not positive.

Q. You had done your work at that time?—A. Yes, sir; I had done what pumping, and so forth, was required around and cleaned the place; I had done the washing the day before.

Q. When were you absent before that?—A. If I want to go down street I generally ask permission. I am never a day off you may say.

By Mr. ALLISON:

Q. Of whom do you ask permission?—A. Of the doctors here; Dr. Glennan sometimes; sometimes Dr. Purvis; whoever is here.

By Mr. SARGENT:

Q. What time do you start the fire under the boiler in the morning?—A. One of the nurses starts the fire for me now of a morning; that is, he merely kindles the fire. I come here——

Q. What time do you get here?—A. I get here about seven o'clock.

Q. What time is the fire started in the morning in the boiler?—A. About six o'clock.

Q. What time do you let it go out?—A. I generally bed it at night, keeping merely enough to heat water for cooking purposes. I keep the steam for cooking purposes always.

Q. What time do you bed it?—A. About four o'clock.

Q. Is all this necessary to do the work of the hospital?—A. Well, the washing, sawing of the wood——

Q. Do you saw by machinery?—A. Yes, sir; I put a saw there to save wood.

Q. How much coal do you use in getting up steam?—A. Well, sir, it takes a little over two wheelbarrow-loads to do the work of the hospital.

Q. All day?—A. Yes, sir.

By Mr. EATON:

Q. Can you not give the weight?—A. I can give very near to it. My way of doing is this: A wheelbarrow holds about four hods, and each hod weighs about 50 to 60 pounds. So it is about 200 pounds to the wheelbarrow-load; about 400 pounds I generally use.

By Mr. SARGENT:

Q. How much of that which you have mentioned do you generally use in getting up steam?—A. I suppose about a wheelbarrow-load would do the pumping of the morning.

Q. In getting up steam, how much?—A. I of course start with wood.

Q. Then you use another wheelbarrow-load after that during the whole day?—A. Yes, sir; two wheelbarrow-loads, I suppose, is about the average as near as I can come to it.

Q. Are those two wheelbarrow-loads more than 100 pounds a day?—A. Yes, sir. A wheelbarrow, as near as I can come to it, as often as I have handled it, holds about four hods—about 200 pounds.

Q. How large is this hod?—A. Number 8, I think. I have weighed the hods and weighed the coal, and that is the way I make the whole calculation.

Q. A hod full of coal weighs how much?—A. A hod full of coal weighs 60 pounds, hod and all.

By Mr. ALLISON:

Q. How many bushels in a hod?—A. I cannot say.

Q. How many do you suppose? Suppose you had a bushel-basket instead of a hod, how would it compare? Does the hod hold as much as the bushel-basket would contain?—A. I do not think it would. I have weighed them on the scales there in the commissary, and the hod and all weighed 60 pounds. I average about 50 pounds, allowing 10 pounds for the hod, and it is a large-sized hod, too.

By Mr. SARGENT:

Q. Do you pump for the Howard University?—A. I do.

Q. An hour a day?—A. An hour a day.

Q. How much additional coal do you use in that hour?—A. Better than a wheelbarrow, about 300 pounds, I judge.

By Mr. ALLISON:

Q. In the hour?—A. In the hour. You see it is a pretty good height up there, and there is a heavy body of water ahead of me, and I know it takes twice the quantity of steam to pump up there that it does to do my own ordinary work about here.

By Mr. EATON:

Q. You have but an hour; that would be two hours of your ordinary work, two hours of steam. That would not be as much as you speak of, would it?—A. I have to put in a larger fire and keep up a bigger head of steam. My pump will not force up there unless I do.

By Mr. ALLISON:

Q. I want to understand you about this. You say you use up one wheelbarrow-full in the morning to start your fires?—A. Yes, sir.

Q. Then you think you use about a wheelbarow and a half for the Howard University?—A. That is the idea.

Q. That takes an hour?—A. Yes, sir.

Q. What else do you do during the day except these two things—getting up steam in the morning and pumping for the Howard University during the day?—A. Just keep a light head on for the kitchen and for the wash-house.

Q. How much coal does that take; how many wheelbarrows-full?—A. It would not take any for that. It does not take any, you might say, because the waste steam I have there does it. Ten pounds of steam will suffice.

Q. The steam you have for the Howard University lasts the rest of the day?—A. I have to keep steam on for the kitchen and wash-house all the time.

Q. But you do not use any coal of any amount after you do this hour's pumping, do you?—A. O, yes, sir; I add coal.

Q. How much?—A. In the afternoon I have to fill my tanks after I have done the Howard University.

Q. How much coal do you add then?—A. Near on to a wheelbarrow.

By Mr. SARGENT:

Q. Make any statement you wish to make in reference to your knowledge of matters connected with the Freedmen's Hospital.—A. I would rather not make a voluntary statement. If you want to know anything about the dead bodies, or anything of that kind, or the water——

Q. State anything you know about dead bodies.—A. I can tell you about the dead bodies. I had occasion to complain once in regard to a large hole, about four feet square, I judge, dug in the day-time, particularly over my main water-line, a four-inch pipe.

Q. When was that?—A. Toward the latter part of last year. I cannot give you the day and date.

Q. How deep was it?—A. Dug directly down, so as to expose my water-main.

Q. How deep?—A. I suppose four or five feet.

Q. Was the hole being dug at that time?—A. It was dug then. My attention was called to it, and I came up to ascertain by what authority anybody had done it, or by whose orders this hole was dug or was being dug over my main water-pipes. I did not like anybody to be digging around any of my pipes without my knowledge. I reported it to Dr. Palmer and he said that it would be attended to, or something of that kind. Next morning when I came here the hole was filled up. There were complaints made about bodies down here, and Dr. Palmer came around to the engine-house.

Q. What bodies do you mean?—A. Portions of bodies, or something of that kind, dug up right in front of my engine-house.

Q. Do you refer to the head and breast-bones that were referred to by the other witnesses?—A. I saw that.

Q. That is what you refer to?—A. That was part.

Q. What else do you refer to?—A. Dr. Palmer came to me next day with Banks and requested that I should go around and show him where these places were that were spoken of, and he would have them dug up. I took him down and showed him three places. I also took him around to the main water-pipe and said to him, "There is the place there that I complained to you about," that I spoke of in my evidence. Banks spoke up and said, "No, sir; this is not the place; here it is, down here." "Then," said I, "there are two places over my main water-

pipe, and the only way to get at it satisfactorily will be to dig down both places." On a Saturday, I think, he set Banks to work, and he commenced digging. Along the side where this body was dug up was the fresh place.

Q. By "this body" you mean that which I just mentioned?—A. Yes; it had its head cut off, and had no feet.

Q. Any arms?—A. I did not notice. It was too disgusting for me to look at.

Q. I only want to identify the instance, because we have had it fully described by other witnesses.—A. I cannot tell you. Dr. Palmer took a seat alongside my engine-room door, and I took a seat on the opposite side of the door. Potter was going by. He called Potter in and told him something about a letter he had just received, and Potter remained in the engine-room with us. We sat there talking, and when I saw Banks take up a sack-full of something, I did not know what it was, because he would not allow anybody to go down. The railing fence up there was taken away to keep the patients from sitting around there—not to let them go down to see what was up, or anything of the kind. I had orders to take down the fence. The first sack-full that was taken up I directed Dr. Palmer's attention to, and said, "There is one sack-full," and every time I saw a sack or bag I would draw his attention to it.

Q. Was it all in sacks?—A. It was taken up and put in this way (indicating).

Q. Was it in sacks?—A. When he picked it up from the hole and carried it to the dead-house, it was then in a sack or bag, or something of that kind, as much as they could lift.

Q. How many sacks?—A. Three or four, I think.

Q. Three, or four? Which?—A. I cannot say positively. When Dr. Palmer went away, Dr. Purvis and Dr. Glennan went down and staid in the store-room, near the lower place there, and saw the balance of it. I sat around there until it was all dug up.

Q. Is there any other matter you want to make a statement in regard to?—A. I will not make any volunteer statement.

By Mr. ALLISON:

Q. Have you stated to us now all that you have stated hitherto in reference to the hospital?—A. O, no, sir.

By Mr. SARGENT:

Q. Make any statement you have made hitherto, remembering that you are under oath.—A. Exactly. I was asked in regard to using the machinery for this palmetto-paper company.

Q. State what you know about that.—A. I was introduced to a man by the name of Herring, who was brought there for the purpose of experimenting with palmetto for the purpose of making paper.

By Mr. EATON:

Q. When?—A. I do not know the date. I cannot give you dates.

Q. About when?—A. Some time during last year, I think. He introduced Mr. Herring to me.

By Mr. ALLISON:

Q. Who did?—A. Dr. Palmer did. He brought him to the engine-room and wanted me to let him have the machinery to try this experiment with. Palmetto was brought here.

By Mr. SARGENT:

Q. What machinery did he use?—A. It was steaming.

Q. What machinery did he use?—A. The washing-machine.

Q. What was the washing-machine?—A. The washing-machine is composed of a large box, with a drum inside that revolves two revolutions this way and then revolves back again, the clothes being put inside.

Q. It was a washing-machine or tub?—A. A large square box.

Q. Do you call it a tub?—A. Some call it a tub, and some call it a machine, because it goes by machinery. There is a large drum on the inside of it.

Q. Was this in use for any other purpose at that time?—A. For washing.

Q. Was it at that time used for washing?—A. Not at that time. It was a kind of extra one.

Q. Had it been some time before?—A. When one gives out, we take this extra one, as we call it.

Q. Then this one was not in use at that time?—A. No; it was not in use at that time.

Q. Proceed.—A. I did so; the palmetto was brought up, and I steamed it for them, and it was pounded up in the coal-house and taken to the paper-mill in Georgetown.

Q. How was it pounded up in the coal-house? Who pounded it up?—A. One of the nurses pounded it up the first time, and then he had a man here of his own.

Q. Who had?—A. Well, I cannot say whether Dr. Palmer or Mr. Herring.

Q. Did you have an interest in that?—A. I did not.

Q. Did Dr. Palmer advise you not to take an interest in it?—A. He did.

Q. Did you have an offer to go as engineer to Mr. Herring?—A. I did.

Q. Were you considering that offer?—A. Well, I just considered this way, that he was a man who teased me a great deal about it. He said when he got his machinery up he wanted me as an engineer down there, and then afterwards he came to me and wanted to make some other proposals to me in regard to taking stock in it, but I did not see it; I would rather see something, poor man as I was, that I could secure myself on if such a thing was done.

Q. Dr. Palmer advised you not to have anything to do with it?—A. He did, towards the last.

Q. Did he ever advise you differently?—A. No; he never advised me differently.

Q. There was steam used in that box or tub, was there?—A. Yes, sir.

Q. Was that waste steam?—A. Not at all; it was the same steam that I do my washing with, or use for other purposes; it came directly from my boiler; that pipe leads from the boiler to do the washing.

Q. How much more coal did you put in?—A. These things I did not calculate to go into.

Q. Did you use any more coal for that purpose?—A. Certainly I used more coal.

Q. How much?—A. I could allow, on a rough guess, about a wheelbarrow-load; I cannot say more than that.

Q. You did use an extra wheelbarrow-load right along?—A. While I was doing that steaming.

By Mr. ALLISON:

Q. How long did that occupy? How long were you engaged in this

steaming that you speak of?—A. I cannot say; it might have taken about a week; I judge about that.

Q. You used a wheelbarrow-load every day for a week?—A. Yes, sir.

Q. How much time did you occupy in it?—A. I kept steam on there all day.

By Mr. SARGENT:

Q. You keep steam on every day, do you not?—A. Not on that tub. I put steam on that tub, and I could cut it off when I pleased. I had control of my steam, to be sure; I put the steam on there in the mornings, and when it was properly boiled it would be taken out and taken into the coal-house and there pounded, broken up like, and mashed, and then taken off to a paper-mill.

Q. Do you burn an extra wheelbarrow-load of coal for washing purposes on washing-days?—A. On heavy wash-days I do—on Mondays; I guess about that.

Q. How many washing-machines do you run on heavy washing-days?—A. There are two large machines there that I run on washing-days. We have three machines there.

Q. Does it take a wheelbarrow-load extra to a machine?—A. No, sir; I guess not.

Q. Why did it take an extra wheelbarrow-load to this extra machine?—A. Because I kept steam on it all the day long, from morning to night.

Q. Do you not keep the steam on for those washing-machines?—A. Only the time in doing the washing.

Q. How long is that?—A. A half-day on Mondays, and till about eleven o'clock other days; that is, on Wednesdays and Fridays.

Q. What else have you testified about heretofore?—A. It taxes my memory; they had me here so much before. I wanted to let the whole matter drop; I thought it would all have dropped before now.

By Mr. ALLISON:

Q. You say this palmetto business lasted about a week?—A. I think so.

Q. Why was it stopped then?—A. I cannot say, unless it proved a failure; that is all I can tell you; the paper did not turn out well. I saw some of the paper that was made from it, and I suppose it proved to be a failure; that is as near as I can come to it. They boiled all by steam here and took it off. There was enough to satisfy the company that it did not act. That was the last I heard of it.

Q. Did you object to using your steam for that purpose at the time?—A. I did not; I could not do it. I had orders from my superior officers, and I obey whatever they tell me to do. If they told me to take them out I would take them out. I believe principally what they examined me before as near as I can recollect was in regard to the water. They did say something about the vermin business to me on the clothes in washing.

By Mr. SARGENT:

Q. Do you find vermin on the clothes in the washing?—A. Most undoubtedly. I have seen clothes brought into the wash-house just thrown out off people where the lice were actually creeping all over them.

By Mr. ALLISON:

Q. What sort of clothing?—A. Patients' clothing that come in, where they strip them. As I say now, my way would be when a patient comes in, and comes in that condition, the clothes should be burned up directly. I do not believe there is any salvation for them in boiling them

as anything else. I believe the only fit way is to make a fire under them and burn them up and be done with it, and not allow them to be put in the machine at all.

By Mr. SARGENT:

Q. You think the machines will not kill the vermin?—A. I do not.

By Mr. ALLISON:

Q. Will not the steam do it?—A. Steam will do it provided it is put up to a very great heat, but then I do not know if it takes twenty pounds to run the engine whether it would be worth while to put on forty pounds.

By Mr. SARGENT:

Q. You think it would be cheaper to buy new clothes all round?—A. Most undoubtedly, for the clothes come in that vermined state that they are really not fit for a man to put on again.

By Mr. ALLISON:

Q. Are the patients that come in here generally a pretty hard lot?—A. Some of them; some of them are pretty rough. Some of them do not come in here until the lice almost eat them up. That is about the amount of it.

By Mr. SARGENT:

Q. It is a very difficult problem to deal with, what to do with these poor wretched creatures?—A. I think it is pretty hard to kill a louse, anyhow.

Q. With patients that come in here in the last stages of consumption and covered with vermin, and so forth, it is pretty hard to keep things clean, is it not?—A. Well, I do not know about that, if they would take the proper course. In the first place, they should strip the man, burn the clothes immediately, and not allow them to lay their clothes here and thus scatter vermin all over the place. That is my idea of it. As soon as it gets warm they will crawl every which way. I know very well, from my being in the wash-house attending the machinery there, that I have actually carried them home on myself from just working in and out of the wash-house.

Q. You think it would be an object for the government to make an appropriation to buy clothing right out and burn this up?—A. Yes, sir; burn this up. The clothes are not in condition really, after they are taken off, for the poorest mortal in the world to wear again.

Q. Are the heads of new patients shaved, do you know?—A. No, sir; I do not think they are. Sometimes, if the hair gets pretty long through the summer, they cut as close as scissors will cut it; but I do not think they are trimmed the first thing when they come in. As far as my knowledge goes, the hair is not trimmed when they first come in.

Q. I suppose the lice would be apt to stick to the hair?—A. They would do it, and to the clothes particularly. That is the main point. My idea of it, as I have said here, is that these clothes ought to be burned right up. There should be something of that kind, because they will spread over the place. I have seen them on clean clothes directly from the laundry-room.

Q. After they have been steamed?—A. After they have been steamed and ironed; I have seen them on the clean clothes; I have seen them myself.

Q. And the only remedy, you think, is to burn them up?—A. Yes, sir.

Q. The clothes are sometimes whole, except that they are infected with lice. They would be otherwise good?—A. Yes, sir; some very good come in here; and then again some come in here that is not fit for any purpose at all.

Q. What do they do with those; do they burn them up anyhow?—A. I do not think they burn any up. They all go to the washing-machine. I have seen them carried alongside of the washing-machine and laid down there for 48 hours.

Q. You wash every other day?—A. Every other day. They would be taken there, and if they happened to come after the washing was done they would lie until the next washing-day. If they come Monday after the washing was done they would stay until Wednesday.

By Mr. ALLISON:

Q. Have you ever suggested burning up to anybody?—A. I do not think I have; but that has been my idea.

By Mr. EATON:

Q. Why did you not go to one of the officers and suggest it?—A. Well, I will tell you the truth. I did not like to make any complaints or suggestions around the place. I have made a suggestion once in regard to meat.

Q. What suggestion did you make in regard to meat, and when was it?—A. I heard a great deal of complaint, it may be a month before I heard of any trouble or investigation here.

Q. To whom did you make the suggestion?—A. Dr. Glennan, or at least I made a complaint to him about the meat being of such bad quality and so on.

Q. What meat did you refer to?—A. Meat that came directly from the butcher and to the commissary.

Q. Who is the butcher?—A. Mr. Hoover.

Q. Where is his place of business?—A. I think he is in what we term the Marsh Market—the Center Market—the Avenue Market. He has a stand there, and one, I think, in what we term the Corcoran Market. I spoke of the quality of the meat, and drew his attention to it, and he said he would see to it.

By Mr. ALLISON:

Q. That is Dr. Glennan?—A. Yes, sir; he went in, and when he came out again he said that he had examined the meat and found it of good quality, and that I should be very careful in making my reports; that I should not say anything about it.

Q. Who is the commissary you speak of?—A. A man named Chapman; some call him steward.

Q. He is the man who receives all the meat?—A. Yes, sir.

By Mr. SARGENT:

Q. In a memorandum sent to us there was something said about some pipe. Do you know about that?—A. I was asked in regard to my doing work outside for private parties; I was asked for whom I had done this work. I stated that I had done work for Dr. Palmer and Dr. Glennan, and also for Dr. Purvis. I was asked what work I had done; I told that I had set a fountain in front of Dr. Palmer's house, and done other jobs there, besides some houses south of the Capitol that he owned; cutting and running water-pipe, setting hydrant, &c. I was asked what work I had done for Dr. Glennan; I had run sewers, and one house I had fitted up with gas; but I must say as far as Dr. Glen-

nan is concerned, and that gas business, I am satisfied he paid for his pipe any more than my time and labor there.

Q. How long did you work for Dr. Palmer?—A. Off and on, I suppose——

Q. Altogether?—A. I would leave here in the morning, get in the wagon, go down, and stay two-thirds of the day down there.

Q. How many times did you do that?—A. About three times down to his house, I think, and then I was taken in an ambulance down to these houses south of the Capitol, what we call Howard's Row down there. I was about a day and a half down there, I judge, at one time.

Q. Altogether three days?—A. I judge about that.

Q. Did you ever present a bill for it?—A. Not at all.

Q. Why not?—A. I do not like to send a bill. I was here; he ordered me to do it, and I did it. I could not send in a bill, and did not think I would have a right to.

By Mr. ALLISON:

Q. Who did your work here when you were down there?—A. Sometimes the nurse would be called out to look after my boiler.

Q. You generally did your work here before going there?—A. Yes, sir; I would come over here and get things all straight apparently, and then I would leave him to look out for the boiler. I ran some water-pipe for Dr. Purvis at his house.

Q. How long were you doing that?—A. I guess I was not more than half a day doing that.

Q. Did he pay you for it?—A. Now, to say whether he paid me for it or not—I sawed his wood for him by the machinery here, and when Christmas came he sent me a turkey. I do not know what it was for, now, to tell the truth about it.

By Mr. SARGENT:

Q. How long were you sawing the wood?—A. I think I sawed in all about three cords for him, in five or six pieces.

Q. You said something about a piece of pipe that you used at Dr. Palmer's. How long a piece of pipe did you use?—A. A two-inch piece of pipe, about eight feet long; eight or ten feet, something in that neighborhood.

By Mr. ALLISON:

Q. Did you take it from here?—A. Yes, sir.

By Mr. SARGENT:

Q. To whom did it belong; the University or the Hospital?—A. That is a question. When I came here, eight years ago, there was no pipe on the place. This two-inch pipe, I believe, then was under the Bureau of Freedmen, Refugees and Abandoned Lands. Whether that was the government or Howard University I cannot say.

Q. Was this building standing then?—A. This building was standing then.

Q. Belonging to the Howard University?—A. I judge so.

Q. Were the premises then hired of the Howard University?—A. That I cannot say. The building known as ward number one and ward number two has been built since I came here. It was built partly out of what we term the brown house down below.

Q. Was that on the premises that belonged to the Howard University?—A. It was at that time, but a great portion of it has been sold since.

Q. It belonged to the Howard University?—A. It did at that time.

Q. You are not able to say whether at that time the government rented of the Howard University or not?—A. I am not able to say anything about that.

Q. Do you know now whether it does or not?—A. To the best of my belief it is rented. I understand there is an appropriation of $2,000 rent for it.

Q. All the property here belongs to the Howard University, does it not, but is rented by the government?—A. That is what I cannot say; that is something I never went into; but this pipe I was speaking of. I was to fit up this ward with steam, water, and gas. That was the understanding. I do not know how many hundred dollars it cost, but I made an estimate of the amount of pipe and so on. The pipe was cut, and there was some difficulty because Mr. Evans and Mr. Shepherd did not get the job, and the pipe never was put in. This was at the time that Colonel Brown was quartermaster for the Bureau of Freedmen, Refugees and Abandoned Lands, I think. The pipe remained in my engine-room, and this was a piece of that pipe.

By Mr. EATON:

Q. You do not know to whom it belonged?—A. I will not say positively who that belonged to. I cannot.

By Mr. ALLISON:

Q. Are you a plumber?—A. I believe I am.

Q. A gas-fitter by trade?—A. Not by trade. I am an engineer, but I have done all the gas-fitting, and the plumbing, and everything, without a dollar's expense to the government in the last eight years in this place, where they were paying hundreds of dollars for plumbing here every month before that.

By Mr. SARGENT:

Q. During how long a time have you been doing that?—A. About eight years.

By Mr. ALLISON:

Q. Who does the plumbing now?—A. I do all the plumbing and all the repairing and everything about the place at the present time.

Q. Since the last of June just as before?—A. Just as before.

Q. There has been simply a reduction of your wages, then?—A. That was all. I was allowed that $30 for my services in keeping the plumbers out of here and keeping the place in repair.

By Mr. SARGENT:

Q. Since last June they have taken away from you that $30?—A. Yes, sir. I still go on the same as I did before.

By Mr. ALLISON:

Q. What was the reason given for that?—A. Because the Appropriation Committee only put in $60 for an engineer.

Q. Therefore they could not pay you any more?—A. Therefore; but I have always been receiving since I came here $60; that was the understanding; and they gave me the $30 for my services in keeping the pipes, &c., in repair.

Q. You think you ought to have the extra $30?—A. I do most undoubtedly. I should be very glad to get it about this time, as it has brought me down almost to want.

By Mr. SARGENT:

Q. Is there any other statement you wish to make?—A. Nothing.

By Mr. EATON:

Q. Who first notified you that your $30 was taken from you?—A. I do not know but what I saw it in the papers, and then we had a talk about it. I know we had a general conversation.

Q. Whom did you talk with? Dr. Palmer, do you mean?—A. Yes, sir.

Q. Did he tell you then that it was impossible for him to pay you any more than the $60 because that was all that the government allowed?—A. Yes, sir; I think he did tell me that.

Q. Did you find any fault with him for it?—A. I do not know that I found any fault with him personally at all. I thought it was a very hard thing, for I had to do the plumbing, and I was advised not to let any other plumber come in here, for it would be the means of losing my place. I thought half a loaf was better than no bread. I thought I had better go on and trust to getting, perhaps, my $30 back again, or getting an understanding as to myself here.

Q. A great deal of fault has been found with a certain water-closet in one of the wards—ward number two, I think. Did you take down that water-closet?—A. I took down part of it.

Q. At whose order, or was it at your own suggestion as a plumber that it was necessary to be done?—A. The idea is this——

Q. Answer the question first, and not with any idea. Did you do it by an order of one of the officers, or was it from your own knowledge as a plumber that it was necessary to to do it?—A. I had orders to repair a water-closet in ward number two.

Q. From whom?—A. From one of the doctors.

Q. Which one?—A. I cannot say positively now whether it was Dr. Glennan or Dr. Palmer; one of the two.

Q. As a matter of fact, was not Dr. Palmer absent at that time, so that the order was given by Dr. Glennan?—A. That is just as I say; I do not know positively, but I am of the opinion that it was Dr. Glennan that gave me the order.

Q. Now, what was the order?—A. The order was to repair that water-closet.

Q. Then it was out of order, was it?—A. It was out of order.

Q. Had you examined it before, and notified the physician that it was necessary to repair that closet?—A. Well, I was notified by Dr. Glennan, I think, as near as I can come to it, to repair that water-closet. I knew nothing of it previous to that. It was a patent water-closet, and the hinge of the basin had become broken. I took off the remaining part of the hinge, got an order from Dr. Glennan, sent it down to Somerville's, the brass man's, and they kept it there two or three days. When it came back it came back with the understanding that he could not repair that. I immediately reported. There was no more notice taken of it at all. I told him I could not do it unless I had these things to do it with; if he gave me these things I could do it here. They sent word back that they could not do this. It went on for some time, a week or ten days, I judge; no notice was taken of it until Dr. Palmer came to me.

Q. Had he not been absent?—A. I know he was away. I cannot say whether it was that time or not.

Q. He came to you, anyhow?—A. Yes, sir. Until this disturbance

was going on, I knew nothing of it. He commenced blaming me as being the cause of all this disturbance.

Q. What do you mean by "all this disturbance"; about the water-closet, you mean, I suppose?—A. They had a little private consultation over in the room there, in ward number two.

Q. Did he complain to you that you had taken the water-closet out, and that it was your fault that it was not put in repair again? Was that the complaint?—A. That was the complaint he made to me.

Q. Then what was done?—A. I told him directly what had been done. "Well," said he, "you ought to have reported to me." I could not report to him if he was out of the city.

By Mr. ALLISON:

Q. Then he was out of the city at that time?—A. I judge so, as near as I can come to it.

By Mr. EATON:

Q. What did you do then, or what did he order then?—A. He said, "It must be fixed some way or other." Said I, "I do not know any way except to send off to the manufacturer, or take the whole thing out and put in an old second-hand one," that would answer as we could not repair that one. I came down in the basement, here, where there were some extra ones, and I took one of these old water-closets, repaired it, fixed it up, and put it in there.

Q. As soon as possible after you got that order?—A. Most undoubtedly. As soon as that was done I went to work and fixed it right up. There were no urinals around. There used to be two, and I recollect putting them up myself. One happened to remain in the women's ward for a long time, until I spoke of it; and as they would not have any use for it I spoke of taking it out of there. Since this thing, I have put up urinals all around in the men's wards, and fixed up generally all around.

Q. You did it by order of Dr. Palmer?—A. O yes, sir; by order of Dr. Palmer.

By Mr. SARGENT:

Q. Do you know anything about boiling human bones?—A. Yes, sir.

Q. What do you know about that?—A. I have had bones sent down to me at the engine-house to boil for the purpose of getting the grease out of them. I have done it.

Q. For whom?—A. It has been some time ago.

Q. Who sent them down to you?—A. The students. I do not think Dr. Palmer or Dr. Glennan would send those things down there.

By Mr. ALLISON:

Q. Did they know it?—A. I think they did.

By Mr. SARGENT:

Q. Why do you think so?—A. Because I was boiling them at the time they came into the engine-house.

Q. What were these bones; remains of dissections?—A. Yes, sir.

Q. Bones that the students wanted to preserve for specimens?—A. I judged that was what it was for.

Q. In what would you boil them?—A. I would get a kettle, or a tin pan, or something, and put in a little water and a little soda, and turn the steam on, and boil them in that way.

Q. How often did you do that?—A. As often as half a dozen times, I suppose.

Q. What bones would come?—A. Arm-bones, I judge.

Q. These were sent by students for the purpose of preserving as specimens?—A. Yes, sir.

By Mr. ALLISON:

Q. You say that was some time ago. When was it?—A. I do not think it was in Dr. Palmer's time. I do not think it has been done in his time at all.

Q. It was before his time?—A. I think it was before Dr. Palmer's time. I never kept any data of it.

By Mr. SARGENT:

Q. Under Dr. Reyburn?—A. In Dr. Reyburn's time.

Q. Are you in the habit of coming in here into this room [the surgeon's room]?—A. I do not know. Yes, I come in the morning.

Q. Do you ever take letters out of this room?—A. No, sir.

Q. Did you ever take a letter out of here?—A. Never.

Q. Nor give it or show it to any one?—A. I have not done it.

By Mr. ALLISON:

Q. You have not done it within a day or two?—A. No, sir; I have not.

By Mr. SARGENT:

Q. Did Robert Johnson read a letter to you from Secretary Schurz assuring you that you would be kept in your place if you would testify in this matter?—A. No, sir; I went down to Secretary Schurz myself in regard to this kukluxing the engine-room doors and kukluxing the ambulances and the commissary doors.

Q. Explain yourself. What do you mean by kukluxing? Who was doing it?—A. Somebody did it at night-time and hung crape to my door, and I complained about that.

Q. Who did it?—A. I cannot say. It was done in the night-time.

Q. Who did you suppose did it?—A. I cannot say. All I can say is this, that I said we had a watchman at the gate and I thought it was a very singular thing that a watchman at the gate protecting government property should allow this thing to be done right underneath his nose.

Q. Might it not be done by some patient getting out of the hospital?—A. Certainly a watchman passing, coming right to the commissary door, should know it.

By Mr. ALLISON:

Q. Who is the watchman?—A. His name was Wall, at that time. He was discharged directly afterward.

By Mr. SARGENT:

Q. You got no letter and none was read to you by Mr. Johnson?—A. I got none, I am positive.

Q. Then if Mr. Johnson says the reason you testified in this matter was that he read to you a letter of that kind from Secretary Schurz, he is mistaken?—A. He is certainly mistaken as regards any letter being written in that way at all, or any letter of that style being written.

Q. Did you call upon a woman by the name of Nachtman, about two weeks ago, or at any time, to try to get her to testify against the hospital?—A. I did not; I never called upon her for that purpose at all.

Q. Did you tell her you had been to see Secretary Schurz and he had promised to retain you, even if the Senate committee did not find against Dr. Palmer?—A. No, sir; I never said anything of that kind.

Q. Have you had meetings at your house for the purpose of getting up evidence against Dr. Palmer?—A. I have not.

Q. Or to get him removed?—A. Not in regard to getting him removed at all.

Q. In reference to getting up testimony against him?—A. No, sir. Well, some of my friends have come there.

Q. What friends?—A. Dr. Augusta came there.

Q. Who else?—A. Mr.—let me see if I can recollect. Mr. Wall was at my house once.

By Mr. ALLISON:

Q. The watchman?—A. No, sir.

By Mr. SARGENT:

Q. Who is this Mr. Wall?—A. O. S. B. Wall, 'Squire Wall.

Q. Was he the man who furnished milk to the hospital formerly?—A. I judge so.

Q. They do not take milk of him now?—A. Of his brother.

Q. He lives in this neighborhood, does he not?—A. Yes, sir.

Q. Who else?—A. Mr. McFarland came to my house once.

Q. On that errand?—A. No, sir; not on that errand.

Q. You know what I am talking about?—A. I cannot say any of them came in regard to that.

Q. I ask if there was not a consultation at your house for the purpose of getting up evidence against Dr. Palmer?—A. None, none whatever, for the purpose of getting up evidence against Dr. Palmer.

Q. What did Mr. Wall come there for?—A. That has been some time ago. I shall have to think.

Q. In reference to this investigation?—A. There may have been something said about the investigation, most undoubtedly.

Q. Was that the purpose of the consultation?—A. There may have been something said about it.

Q. What was said about it?—A. That I cannot say; just an off-hand conversation.

Q. Did Dr. Augusta come for the same purpose?—A. No; he came to hear what had been done or what was doing, and so on.

Q. You know Robert T. Johnson, a colored man in ward 2, do you not?—A. If you mean the one who is in the ward here, I know him.

Q. Is he the one formerly connected with the fire department of the city?—A. That I do not know of my own knowledge.

By Mr. ALLISON:

Q. You have tried to be faithful here during all your service?—A. I have.

Q. Are you any more so now than formerly?—A. Just as much so.

Q. You are faithful and diligent and have always tried to be so?—A. Yes, sir.

By Mr. EATON:

Q. You always intended to do your duty, I presume. In other words, did the recent investigation make any difference in your mode of doing your duty? Have you done it any better latterly than you did six months ago?—A. I have done it just the same.

Q. Then you can answer the question. I only want a truthful answer: you did it as well before?—A. Yes, sir.

MARY ANN BANKS (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you a nurse in the hospital?—Answer. I am.

Q. In what ward?—A. Dr. Palmer's.

Q. How long have you been nurse?—A. I do not know exactly, but I have been here some time.

Q. Some years?—A. Yes, sir.

Q. Were you here under Dr. Reyburn?—A. I was.

Q. What is the character of the patients received? In what condition do they come?—A. Some of them come very dirty, and some of them, of course, come tolerably clean.

Q. You are in a female ward, are you not?—A. Yes, sir.

Q. Do they have vermin on them?—A. Sometimes on their heads and bodies, too.

Q. What do you do with them?—A. We take them right off. When they come we bathe them and have their clothes washed. Sometimes the clothes are so bad we cannot do it and we burn them up, and then the doctor gives them clothes.

Q. Do you know of clothes that are too dirty to be washed being burned?—A. Sometimes when they are very ragged and buggy, not worth washing, they are burned.

Q. Where are they burned?—A. We burn them up in the stove in the ward. They do not have anything on them sometimes but two pieces when they come in.

Q. What is the food of the patients in your ward?—A. They have for regular diet beef and potatoes and flour, bread or corn-bread, whichever they request, and if they want anything extra, of course they ask it and the doctor gives us a special order for it. Then they get chicken once or twice a week, and soup.

Q. How is the food cooked?—A. Well, I cannot say much about that. If the patients send for something special, of course it is cooked very well; they do it up particular; sometimes it is done very well, and sometimes patients find fault with it and say it is not good. Then I want to know what is the trouble. They say, "We cannot eat this," and then I get something else to eat for them. That is all I know.

Q. Do you notice, when they complain, whether it is the fault of the food or of the stomach?—A. I think it is from sickness, because it is good, and if I see anything that is not right, I speak to the doctor and it is fixed right.

Q. Is the cooking now about the same as it was two or three years ago?—A. Yes, sir; about the same.

Q. Are the articles of food about the same?—A. Yes, sir, the very same.

Q. There has been no change, to your knowledge?—A. No, sir; I do not think there is. We have pork sometimes; sometimes we have beef; and we have fish; sometimes mackerel and sometimes cod-fish, and in fresh-fish season we have fresh fish.

Q. Do you always have?—A. Yes, sir; always.

By Mr. EATON:

Q. Was it so under the other doctor?—A. Yes, sir; under the other doctor, and also under this one, Dr. Palmer.

By Mr. SARGENT:

Q. What is the quality of the mackerel, for instance?—A. They have

been having number one mackerel. They are good mackerel; large number one.

Q. Are they the same kind they have always had?—A. Yes, sir.

Q. And ever since Dr. Palmer has been here?—A. Yes, sir; only once I believe they were not good, and the doctor saw to it.

Q. His attention was called to it, and he saw that they had better?—A. Yes, sir; when they spoke of it, of course it was reported to the doctor, and then he saw that it was made better.

Q. And they had better after that?—A. Yes, sir.

Q. They had better before that?—A. Yes, sir; it was only once that I remember to say that they complained.

Q. What is the character of the white bread; is it sour or good?—A. Sometimes it was found sour in warm weather; but after it was spoken about it was sent away and it was seen that it was good, and of course that was when Dr. Rayburn was here, too. They would find fault with the bread and he would see that it was not so.

Q. What is the quality of the corn-bread?—A. The corn-bread is just made plain.

By Mr. EATON:

Q. Hoe-cake?—A. No, sir; not hoe-cake. It is all baked together and then cut up.

By Mr. SARGENT:

Q. Is it good corn-bread?—A. Good.

Q. Is it any better now than it used to be?—A. No, sir; about the same.

Q. What is the quality of the hominy?—A. The hominy is generally very good.

Q. Has it always been?—A. Yes, sir.

Q. Generally, you state it is the same now that it has been?—A. Yes, sir; generally the same.

Q. What do you do about cleaning your ward?—A. I clean the ward once a week these short days; when the weather is warm, two or three days in a week; and every day around the stove where it is needed and between the beds; and it is swept out every day and kept clean.

Q. How was it last August?—A. I do not know; I suppose about the same. I do the same business there every day.

Q. And you have done so for several years?—A. Yes, sir. Sometimes I have had to scrub Sundays just the same as any other day.

Q. How often do you change the bedding?—A. The bed all the way through once a week; and when I have a really sick patient I change it any time it is needed, if it is two or three times a day.

Q. How often do you change the clothes of the patients?—A. Once a week.

Q. Do you give them clean clothes?—A. Yes, sir.

Q. Did you always do that?—A. Always did it.

Q. What do you do when a person dies in the ward?—A. Wash them, lay them out, and call for the watchman to come and bring the stretcher and carry them out to the dead-house.

Q. Do you wash them in the ward?—A. Wash and dress them in the ward.

Q. Do you dress them with clean clothes?—A. Yes, sir.

By Mr. ALLISON:

Q. How many patients have you in a ward generally?—A. I could

not tell you exactly how many there are, but I guess somewhere over twenty-five at present.

Q. Is that about the usual number or do they grow more?—A. It grows more and more, because we have got rid of some, and as fast as we get rid of some more come in.

By Mr. SARGENT:

Q. You think you have rather more now than you used to have?—A. No, sir; we always have been pretty full. It has been so full that I did not have beds enough to supply them, and would have to put them in another ward.

By Mr. ALLISON:

Q. Are these all colored patients?—A. No, sir; we have two white girls. We have had several.

HENRY SANDERS (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you connected with the hospital?—Answer. Yes, sir; in Dr. Purvis's ward; assistant nurse of ward No. 2.

Q. How long have you been nurse in the hospital?—A. Ever since the 1st of last May.

Q. You were here through the summer and you have been here down to the present time?—A. Yes, sir.

Q. Where do you eat?—A. In the mess-house.

Q. Do you know about the food that is served up in the mess-room?—A. Yes, sir.

Q. What do you have for breakfast there now?—A. Beef and hominy, in the morning for breakfast, and eggs.

Q. Did you have the same last May?—A. O, yes, sir; we had the same last May.

Q. Did you have the same articles?—A. Yes, sir.

Q. Did you have meat for breakfast then?—A. Yes, sir; and some mornings fish.

Q. Did the patients have the same?—A. Yes, sir.

Q. They ate the same food as the nurses?—A. Yes, sir.

Q. How was the meat?—A. The meat was tolerable; kind of salt, sometimes, the meat is.

Q. You refer to the salt meat?—A. Yes, sir.

Q. How was the fresh meat?—A. The fresh meat is just the same; sometimes a little tainted in warm weather.

Q. How was it generally?—A. Most generally the same thing right along through.

Q. Do you mean good or bad?—A. Good. Sometimes patients will make complaints anyhow.

Q. But you are not a patient; and I want to know what the fact is, not whether they complain.—A. I will just tell the truth.

Q. That is what I want.—A. We all complain, sometimes, about the meat being so salty, and think we could get better.

Q. How is the food cooked?—A. Cooked sometimes pretty bad.

Q. "Sometimes." How often?—A. Most generally along so. It is not so well cooked as it ought to be.

By Mr. ALLISON:

Q. Not done enough?—A. Not done enough. Sometimes the meat would not be quite done.

By Mr. SARGENT:

Q. You say that sometimes it was not done?—A. Sometimes.

Q. As a rule was it not done?—A. Not all the time; just sometimes; now and then.

Q. Once a week, or twice a week?—A. Once a week.

Q. What kind of bread do you get?—A. We get loaf-bread.

Q. But what kind of bread, good or bad?—A. Good bread.

Q. Was it sour?—A. Once or twice it was kind of sour, just once or twice. We made a statement to the doctor about it and got better bread.

Q. What is the treatment of the patients by the physicians in your ward?—A. Dr. Purvis, as long as I have been under him, has treated them very well. If they ask anything, he generally gives it to them if they have it to give.

Q. Does he inspect the ward regularly?—A. Yes, sir; every day.

Q. Does he inspect the water-closets as well as the rest?—A. Yes, sir; every morning when he comes through he looks at the water-closet.

Q. What do you do toward cleansing your ward and your water-closet?—A. We wash with soap and soda to cleanse the floor.

Q. How do you clean the water-closet; in the same way?—A. Yes, sir; we scrub up good.

Q. Are the patients careless in the water-closet?—A. Very careless. We have always to tell them about being careful.

Q. Is it a great deal of trouble to get them straight?—A. Yes, sir; a good deal.

Q. Do you ever change the beds?—A. Yes, sir.

Q. How often?—A. We change the beds every Monday; give clean sheets and pillow-cases.

Q. Suppose a patient defiles the bed, what do you do then?—A. We take that off and put a clean one on.

Q. A mattress?—A. Yes, sir.

Q. What do you do about the underclothing of the patients?—A. We change that every Friday, take them off; and if the clothes are any way dirty we change before; we put on clean clothes throughout.

Q. Did you do that last May, June, July, and August?—A. We did it; when we found anything wrong we always cleaned them.

Q. Did you do the same last summer in these particulars as you do now?—A. Yes, sir; all the way through the summer.

Q. Is the man named Felton a patient in your ward?—A. Yes, sir; a pretty rapid one.

Q. What do you mean by rapid?—A. A cuss man. He called me a son of a bitch many times.

Q. You say he is profane?—A. Yes, sir; he is. He called me a black son of a bitch. He said Dr. Purvis was a son of a bitch, and told me to tell him so.

Q. Was that on account of any ill treatment of yourself to him?—A. Not a bit. I do the very best I could for him. I only came into the ward and went around his bed, and he drove me away from the bed, and told me he did not want so black a son of a bitch around him; that I was only a spy anyhow. If he had been anything of a man, I would have went for him.

Q. Were you spying anything at all?—A. No more than attending to my business, as I generally do.

Q. What did you go there for?—A. I went to get one of the jugs out, to empty it.

Q. Mr. Potter is a patient in your ward?—A. Yes, sir.

Q. Mr. Potter testified to something in reference to his discharge. Do you know the cause of Mr. Potter's discharge?—A. I do.

Q. What was it?—A. He was discharged for misconduct in the ward He was cussing about the grub he was getting. I told him I could do no better and I would tell the doctor. He was getting very good grub. He was kind of poorly, and said "Take this G—d damned grub out of here, I'll not eat this damned mess." I said "Mr. Potter, you should not cuss like that; I will complain to the doctor about your cussing so in the ward." He said "Do it." I did complain to the doctor about his cussing in the ward; I thought it my duty to tell the doctor of anything going on wrong.

Q. Did he curse in the presence of the doctor to your knowledge?—A. Never in the presence of the doctor; none of them do it in the presence of the doctor.

Q. For that reason the doctor discharged him?—A. Yes, sir; I suppose so.

Q. Are you there in the day-time?—A. Yes, sir.

Q. What do you do about the towels of patients? How many towels do they have?—A. Patients, more or less, have a towel at every bed ever since the investigation commenced, but not before that.

Q. How was it before that?—A. They had to get them just as they could.

Q. How many towels did they have to a ward?—A. I did not take it down to find out how many, but I think there are seventy-five beds in the ward, and we hang towels up outside for men to wipe on that can walk about, and then we have towels, for men who cannot walk, at the side of the beds.

Q. How was it before the investigation?—A. Two or three towels to a ward.

Q. For how many men?—A. Sometimes all the beds would be full.

Q. How many would that be; thirty?—A. Yes, sir; about that.

Q. Would you have but two or three towels for thirty men?—A. Yes, sir.

Q. How often were the towels changed?—A. Almost any time when they would want them.

Q. You would change them at least once a day?—A. No, sir.

Q. Then you were rather scant in the matter of towels?—A. Yes, sir.

By Mr. ALLISON:

Q. Once in two days?—A. Sometimes it would be three days before we changed them.

By Mr. SARGENT:

Q. Did your towels get very dirty?—A. Sometimes they would. When we would find them very dirty we would get clean ones.

By Mr. ALLISON:

Q. Who manages the towel part of the business?—A. The first nurse, Lucius Hawkins, or Harcomb. He is the man who sees to the towels.

Q. Can he get towels when he wants them?—A. Yes, sir; he can get them when he wants them now.

By Mr. SARGENT:

Q. Do you know of his applying for towels and not getting them?—A. I do not.

Q. You do not know of any complaint being made by him that he could not get towels?—A. No, sir; I never heard him say so.

Q. Was Mr. Felton informing witnesses as to what they should testify to in your presence?—A. He did not inform any in my presence. I do not go close to him when he is talking; I do not like to have anything to do with him.

MARY ATKINS (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you a nurse in one of the wards?—Answer. Yes, sir; ward 3.

Q. Is that a female ward?—A. Yes, sir.

Q. How long have you been here?—A. For two years.

Q. What is the condition of the patients when they are brought into your ward?—A. Some are very dirty.

Q. Do they have vermin on them?—A. Yes, sir.

Q. What do you do with them?—A. When they are very dirty and lousy we take them and burn up their clothes. They are washed thoroughly, and clean clothes put on them.

Q. Has that been done ever since you have been here?—A. I have done that ever since I have been here.

Q. What is the food of the patients in your ward?—A. The food now is very good.

Q. What is the food?—A. We have beef and potatoes, or turnips or cabbage. Anybody that wants extras gets them; corn-starch, they get that; eggs, they get them.

Q. You say it is now very good; what is the difference between now and formerly?—A. Well, of course, generally when there was complaining the meat was not good.

Q. When was that, two years ago or one year ago?—A. About a year ago last summer the meat was tainted once or twice.

Q. That was the cause of complaint?—A. Yes, sir.

Q. Was there any other cause of complaint?—A. No, sir; I always heard them say they got enough.

Q. And always good enough?—A. Yes, sir.

Q. Except that once or twice a year ago last summer when it was tainted?—A. Yes, sir.

Q. Is that what you mean?—A. Yes, sir.

By Mr. ALLISON:

Q. Did you tell any one about that?—A. Yes, sir; I told the doctor when he came to me.

Q. What did he say?—A. He said he would have it attended to.

Q. Was it attended to?—A. Yes, sir.

By Mr. SARGENT:

Q. Where do you eat; in the ward or in the mess-room?—A. I eat in the mess-room.

Q. What food do you get in the mess-room?—A. Friday morning we have fish, mackerel, for breakfast; Friday dinner we have mackerel. The rest of the days we have meat, roast beef and potatoes and turnips or cabbages.

Q. Do the patients that eat in the mess-room have the same food?—A. Yes, sir.

Q. Do they have enough?—A. Yes, sir; I have heard them say they had enough; I never heard any of them grumbling.

Q. Do you get enough yourself?—A. Yes, sir.

Q. How much bread do you get?—A. There are plates of bread put on the table.

Q. Do you see the mess-table of the patients?—A. Yes, sir; a plate of bread is put by the patient's plate.

Q. How much?—A. Sometimes one slice; sometimes corn-bread; one piece of corn-bread.

Q. Suppose they want more bread, do they get it?—A. If they want more, the gentleman who attends to the mess-room gives it to them. I have seen him do that myself.

Q. How often do you change the clothes of the patients?—A. Once a week, generally. That is, the regular changing day is once a week; but if I want clothes during the week for the sickest, I get them every day.

Q. Has that been so during the last two years, ever since you have been here?—A. It has been so ever since I have been here. Whatever I call for for a sick patient, I get.

Q. What do you do about cleaning your ward?—A. The wards are cleaned thoroughly once a week.

Q. In what way?—A. Scrubbed; and then along through the week they are mopped around the beds and stoves every other morning.

Q. Do you clean the water-closets?—A. Yes, sir; the water-closets are cleaned every day.

Q. Has that been so during the last two years?—A. Yes, sir; I have done it ever since I have been here.

Q. Are you a day-nurse?—A. Yes, sir.

Q. Who is the night-nurse of your ward?—A. We have not any night-nurse in the ward.

Q. Do you sleep in the ward?– A. Yes, sir.

Q. Are the patients very sick in your ward?—A. I have some very sick. I have been having some very sick. I have an old lady now there that is very sick.

Q. Do you have help from those patients who are convalescent?—A. Yes, sir; but there is not any patient in there now able to help me. The assistant nurse is there with me all day long. At nights I have to get up and see to patients.

Q. You get up at night when there is any call?—A. Yes, sir.

Q. How often did you get up last night?—A. Last night I staid up with her until after twelve o'clock, and then I laid down.

Q. Did you sleep all the rest of the night?—A. I had to get up two or three times. Then I got up about five o'clock this morning.

Q. You have to work pretty hard?—A. Yes, sir; I have to do something to make a living.

Q. Have they had any night-nurse in the ward since you have been here?—A. Yes, sir; there is an old lady down there named Caroline. She used to be night-nurse up-stairs, but she has been sick this last month past.

Q. You think there ought to be a regular night-nurse, do you or do you not?—A. Yes, sir; I think there ought to be a regular night-nurse. The doctor has not got one yet. They told me he would get one.

Q. What wages do you get?—A. Eight dollars a month.

Q. And your board?—A. Yes, sir.

NATHAN STREET (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you a nurse?—Answer. Yes, sir.

Q. In what ward?—A. No. 1.

Q. Who is the doctor?—A. Dr. Glennan.

Q. What do you do to keep your ward clean?—A. We scrub it out twice a week.

Q. Anything else?—A. Yes, sir, we keep the privies all clean; and very often, on account of sickness, three times a week, according to the weather.

Q. How often do you change the clothes of the patients?—A. We generally change them once a week; but the beds, if we have a great many sick cases, we change sometimes twice or three times a week, according to the sickness. The regular changing day is Friday for washing and cleaning patients and changing them.

Q. In changing the beds, you refer to the sheets and pillow-cases?—A. We change them Monday morning.

Q. Suppose a patient dirties his bed, what do you do with that?—A. Clean them, take another bed, and change them. If it is twice or three times a day, we attend to them.

Q. Are the patients that come in dirty or lousy?—A. Sometimes; but as soon as they get in once we clean them.

Q. What do you do with their clothes?—A. We have them washed out and packed away in the baggage room.

Q. Suppose the clothes are excessively dirty, lousy, and ragged, what do you do then?—A. If they are so we cannot make anything of them, we just throw them out.

Q. Where do you throw them?—A. Take and throw them on the pile. In case they are very dirty and ragged, so that we cannot make any use of them, we throw them out. Some come in that way, very ragged.

Q. Where do you throw them?—A. We take and throw them on the ash-pile, not around the ward.

Q. Where is the ash-pile?—A. Out by the stable it used to be, but is not now. We used to carry it around on the common.

Q. You carry it away from the hospital?—A. Of course, outside, on the common.

Q. How do you take care of your water-closets?—A. We scrub and clean them out every day. They are looked to every day.

Q. Are the patients dirty about water-closets?—A. Not at all. Before we had any urinals there, they used to get pretty bad. Some men passed the water on the privy. They did not have any urinals to pass it in.

Q. Since urinals are put in, the water-closets are more easily kept clean?—A. Kept in style. They were kept in as good style as we could before.

Q. How long have you been so particular about keeping your ward clean?—A. We have been particular about that, to my knowing, ever since I have been here, and before I came, I suppose. I have been here about six years myself. I have always been particular about it.

Q. Have you been in that ward all the time?—A. I was in this old ward before that was built, and then there all the time.

Q. Were you as particular as that last August?—A. Just as particular as that last August, every bit.

Q. And before that?—A. Before that, too. I was so all the time. About the sick cases we have on hand, we always generally look to those cases in here. If they are any way filthy at all, we clean them two or three times a day. We never leave anything in the urinal at all.

Q. And never did?—A. No, never.

Q. What kind of food do the patients get?—A. They get pretty good

food, so far as I could say; bacon, and beef, fish, and tea, and coffee, and chicken-soup, and chicken.

Q. Where do you eat?—A. I eat in the dining-room.

Q. There is a table there for the patients also, is there not?—A. For the nurses.

Q. And the patients eat there?—A. When we go in there the patients have gone out. We all eat in one room.

Q. Have you ever been there when the patients were eating?—A. Yes, I go in sometimes not to my meals but passing through.

Q. Do you see whether they have the same food you do?—A. I cannot split the difference.

Q. The same things, as far as you can see?—A. As far as I can see or say, they have the same things.

Q. What kind of food do you get yourself?—A. I get fish and meat.

Q. What do you have for breakfast?—A. Meat throughout the week, and Friday morning they have fish. Sometimes Friday morning they have both fish and meat, and biscuit.

Q. Is the bread sweet, generally?—A. I cannot say anything against the bread.

Q. How is the corn-bread?—A. Very good.

Q. The hominy?—A. Pretty good, as far as I can see or say.

Q. Mackerel?—A. I cannot say anything against the eating now at all.

Q. You are satisfied with the food you get?—A. I am satisfied with the food now. I cannot say anything against it.

Q. How was it formerly?—A. It was most generally as I tell you about the eating; you may speak a little hard about it formerly, but I come as nigh to it as I know.

Q. How was it a year or two ago?—A. Now a year or two ago, I may say, I cannot say so much about that. The eating has been pretty much the same thing since I have been here, except before this committee met there was an alteration made. Then the eating was not as good as since the committee has been here. It has been a little different since the committee took the case in hand.

Q. What difference? What did you have for breakfast before?—A. Meat and fish, as I told you a while ago.

Q. Before the committee came?—A. We had meat and fish, before the committee met, for breakfast. I did say about having meat. We always had meat the whole time round, and on Friday morning we most generally had fish, and sometimes meat, too, with it.

Q. Did you have that last summer and last winter?—A. Last summer and last winter, too, we had it.

Q. That is one of the things the committee want to find out about, because it has been very positively sworn that it is only within the last two or three months that you ever had any meat for breakfast.—A. I cannot come to any such point as that. I must come to the truth. I can say that we have had meat ever since I have been here, except Fridays.

Q. Then tell me what the difference is between the food during the last two or three months and the food during the year before that.—A. The difference is, as far as I could say, that last year the meat was a little different. It is true that sometimes they had some tainted meat.

Q. How often?—A. We had that, I think, once or twice, as nigh as I can come to it.

Q. Was that in the summer time?—A. That was along about summer, I think; I am not positive.

Q. With the exception of once or twice tainted meat, is there any other difference between the food of the present and that time?—A. I have not seen any other difference at all. I state the case as nigh as I possibly can.

JAMES HURD (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you connected with the hospital?—Answer. Yes, sir.

Q. As nurse?—A. Yes, sir.

Q. How long have you been?—A. Near seven years now.

Q. In what ward?—A. Ward No. 6.

Q. Who is the physician of that ward?—A. Dr. Glennan.

Q. That is a male ward, is it not?—A. Yes, sir.

Q. What is the condition of the patients when they are brought into the ward; are they clean or dirty?—A. Dirty when they are brought in.

Q. Is there generally vermin on them?—A. Yes, sir.

Q. What is the condition of their clothes generally?—A. My ward is old folks' ward. I do not get many patients, only once and awhile I get an old man.

Q. Your patients are those that have been here a long while?—A. Yes, sir; the old folks.

Q. The ones that were left here by the original Freedmen's Bureau?—A. Yes, sir.

By Mr. ALLISON:

Q. All colored?—A. All colored. My ward is not a sick-ward. It is the old folks' ward.

By Mr. SARGENT:

Q. What do you do to keep it clean?—A. We generally clean it up, scrub it, and the clothes are washed and changed every week. The clothing and the sheets and the pillow-slips are changed once a week. The ward is scrubbed twice a week, and sometimes three times. It is scrubbed every day if it gets dirty. It is generally scrubbed twice or three times a week.

Q. How long have you been in the habit of paying so much attention to cleaning it?—A. Ever since I had charge of the ward.

Q. Do you make any difference now from what you formerly did in that respect?—A. Not about cleaning.

Q. In any other respect do you make any difference?—A. No, sir; I have not made a difference about cleaning the ward more than what I did from the beginning.

Q. Do you make any difference about attention about patients, to your old men? Do you attend to them now as you used to do?—A. Just the same I always did.

Q. What is the food of the patients?—A. The food I generally carry to them. A great many of them go to the mess-house table or dining-room. I only carry eleven diets on the tray.

Q. You carry eleven diets on the tray and the rest go to the mess-house?—A. Yes, sir.

Q. What do you carry on the tray?—A. Beef, bacon, mutton, chicken and chicken-soup, and rice sometimes, hominy, stewed peaches for supper sometimes, sometimes stewed apples, and sometimes canned peaches.

Q. What did you use to carry a year ago?—A. About the same in that ward.

Q. Was it cooked the same?—A. Yes, sir.

Q. Did you ever see your folks eating in the mess-room?—A. Yes, sir; I have been in the mess-room sometimes when they were eating.

Q. What did they have to eat?—A. I have seen them have at dinner-time cabbage, sometimes beans, beef.

Q. What did they have for breakfast?—A. At breakfast I have seen them have hash, hominy sometimes, and rice. I never was in there much—in the dining-room, at eating time.

Q. Where do you eat?—A. I eat in the dining-room, at the nurses' table.

Q. Did they seem to have the same food and of the same kind that you had?—A. No, sir.

Q. What was the difference?—A. The food is not fixed on their table like it is on ours.

Q. Give us the difference.—A. The food we have of course is set on in dishes, and theirs is set on in plates. We have on our table rice, hominy, fried bacon sometimes, and sometimes stewed beef, cold beef fried over for breakfast. For dinner we have roast beef and potatoes, sometimes pork and cabbage.

Q. What is the difference between theirs and yours, except the kind of dishes?—A. I do not know but they have the same as we have in the morning.

By Mr. ALLISON:

Q. Your food is put on in large dishes, and they have each man his food at his own plate; is that it?—A. Yes, sir; on the plate.

By Mr. SARGENT:

Q. Do any of your men that go down to the mess-table ever complain to you that they do not get enough?—A. No, sir; I do not know that any of my men ever complain to me about not getting enough down there.

Q. You do not remember any instance?—A. None, that I remember.

BETSEY LAWSON (colored) sworn and examined.

By Mr. SARGENT:

Question. You are a nurse in a female ward?—Answer. Yes, sir.

Q. What ward is it?—A. No. 7 and No. 8.

Q. Are you a night-nurse or day-nurse?—A. I am a day-nurse.

Q. Is yours a sick-ward?—A. No, sir; the old people.

Q. What do you do to keep the ward clean?—A. I scrub it.

Q. How often?—A. Twice a week, and sometimes the lower ward where the old afflicted people are every day.

Q. What do you do about the clothing?—A. I change them all once a week, and if any of them is sick they are changed oftener. The beds are changed once a week.

Q. Suppose any of them dirty their beds, what do you do with the beds then?—A. I take the things off and take them to the wash-house and clean them.

Q. Suppose the mattress is defiled?—A. If the mattress is defiled I take it off and have another one filled and put on.

Q. Do you do any different now in that respect from what you used to do?—A. I always have done just as I am doing now.

Q. For how long?—A. I have been here about ten years, I reckon.

Q. You did the same all last summer that you are doing now?—A. I did the same all last summer I am doing now.

Q. What kind of food do you have for your ward?—A. They have very good food.

By Mr. ALLISON:

Q. Plenty to eat?—A. They have plenty to eat, and always have had plenty to eat.

By Mr. SARGENT:

Q. Where do you eat?—A. At the nurses' table.

Q. Is your food well cooked there?—A. Very well cooked.

Q. Is it any different from what it formerly was?—A. No, sir; I do not see any difference in it.

Q. Is there any complaint ever made on the part of your patients that they do not get enough to eat?—A. I never heard any of my patients say they did not get enough to eat.

Q. You never have?—A. No, sir; they always have said they got enough.

BETSEY BORLAND (colored) sworn and examined.

By Mr. SARGENT:

Question. Your are a nurse in one of the wards?—Answer. I have been.

Q Are you a nurse now?—A. Yes, sir; I have all the time been here.

Q. How long?—A. Ever since I could get around.

Q. How many years?—A. I came from the old Freedmen's Village over here; from the time it was broken up.

Q. Have you been here ever since?—A. Yes sir.

Q. In charge of a ward all the time?—A. I have been here sick for all the time; but when I was able to go around, I have always been doing that.

Q. Are you a nurse or an assistant nurse?—A. An assistant nurse.

Q. In what ward do you assist?—A. In Dr. Purvis's ward.

Q. Is that a male ward or a female ward?—A. For old ladies.

Q. Are these what are called sick patients, or are they old people?—A. Old people, pretty much.

Q. What do you do to keep the ward clean?—A. We scrub it.

Q. How often?—A. We wash it sometimes two times a week, and when it is real dirty sometimes oftener. We wash around the stove every day.

Q. What do you do about changing the beds?—A. We clean the beds.

Q. How often do you put on clean sheets and pillow-cases?—A. Every week.

Q. Do you ever change the mattresses?—A. Yes, sir; we change them, too.

Q. Do you ever see any bugs about the beds?—A. No, sir; I never saw any since I have been here about the beds.

Q. You always keep them clean and nice?—A. Yes, sir.

Q. What sort of food do the patients have?—A. They have very nice food.

Q. Do any of them complain that they do not get enough?—A. I hear some of them talk about it; but I get enough to eat.

Q. Do you say that they get enough to eat?—A. They all have enough to eat, I suppose.

Q. Do they ever leave any of it?—A. Yes, sir; they leave things.

Q. You know that?—A. Yes, sir; they cannot eat it all, sometimes.

SUSAN DAWES (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you a patient in the hospital?—Answer. Yes, sir.

Q. How long have you been here?—A. Going on seven years.

Q. In whose ward?—A. In Dr. Purvis's

Q. How often is your ward cleaned?—A. It is cleaned every week.

Q. In what manner?—A. Nice and clean; well mopped and well dressed off.

Q. How often are the beds changed?—A. Every week—every Tuesday.

Q. Do you ever get any clean clothes?—A. Yes, sir.

Q. How often?—A. Every week.

Q. What care do the doctors take of the patients in your ward?—A. Very good.

Q. Are they attentive?—A. Very attentive.

Q. What kind of food do you get?—A. I get very nice food, if it was just cooked done—plenty of it.

Q. Is it cooked done?—A. Not as done as it ought to be.

Q. Sometimes it is not thoroughly cooked, you mean?—A. Yes, sir.

Q. Is it very well cooked?—A. Yes, sir.

Q. What do you get to eat?—A. We generally have beef, potatoes, cabbage, and such like as that.

By Mr. ALLISON:

Q. Bread?—A. Yes, sir; bread.

By Mr. SARGENT:

Q. Is the bread sour or sweet?—A. I do not use wheat-bread—I use corn-bread.

Q. How do you like the corn-bread?—A. Very well; that is my main bread.

Q. And it is good, is it?—A. Yes, sir.

By Mr. ALLISON:

Q. Do you have all you want?—A. Yes, sir.

By Mr. SARGENT:

Q. Do you ever have to complain that you do not get enough to eat?—A. No, sir.

Q. Has that been so during the last two or three years?—A. So far as I have been in there; I have always had plenty.

Q. Has it always been as good as now?—A. Yes, sir.

Q. Have the wards always been kept as clean?—A. Yes, sir.

Q. Do you see any difference between the last three months and the time before that?—A. I do not see any difference; all kept clean, just alike.

HARRIET SMITH (colored) sworn and examined.

By Mr. SARGENT:

Question. How long have you been a patient in this hospital?—Answer. I do not know how many years exactly. I was down at the old hospital several years before they broke up there.

Q. You have been here ever since?—A. Yes, sir.

Q. What ward are you in?—A. Out in that ward; Dr. Purvis's ward.

Q. What do they do to keep your ward clean?—A. They scour and clean it; keep everything very nice and clean.

Q. How often do they scrub it out?—A. They scrub it out once a week, and mop it around the stoves every morning.

Q. Do they change your clothes?—A. O, yes, sir.

Q. How often?—A. Twice a week.

Q. What kind of food do you get?—A. We get pretty good food.

Q. Is there any difference between the food you have got the last three months and what you had before that?—A. Yes, I think there is.

Q. What is the difference?—A. The meat is better.

Q. What was the trouble with the meat before?—A. Some of them said it was spoiled meat, but I did not see it.

Q. Was that the beef?—A. Yes, sir.

Q. How many times was it spoiled?—A. I heard them say it was once or twice.

Q. With that exception it is the same and it always was?—A. Yes, sir.

Q. Is the cleaning the same as always?—A. Yes, sir; they keep everything very clean.

Q. Did they a year ago and last summer?—A. Yes, sir.

ANNIE COOPER (white) sworn and examined.

By Mr. SARGENT:

Question. Are you a patient in the hospital?—Answer. Yes, sir.

Q. How long have you been here?—A. I came in September last.

Q. Under what doctor?—A. Dr. Purvis.

Q. What is done to keep your ward clean?—A. They scrub it once a week, and generally wash around the stoves every morning or two.

Q. Do they change the beds?—A. They change the beds once a week.

Q. Do they give you clean clothes?—A. Yes, sir; I have clean clothes whenever I want them.

Q. What kind of food do you get?—A. I have bread and meat—beef, white bread, corn-bread, sometimes biscuits, sometimes fish.

Q. Where do you eat?—A. I eat in the ward.

Q. Is your food brought to you on a tray?—A. Yes, sir.

Q. You are very infirm, are you not?—A. Yes, sir.

MARY BAGLEY (colored) sworn and examined.

By Mr. SARGENT:

Question. How long have you been in the hospital?—Answer. I have been in it ever since it has been here—ever since they took it from the Freedman's Village. I do not know how many years it has been.

Q. In what ward are you, under what doctor?—A. I am under so many doctors I cannot tell.

Q. Do you know the name of the doctor of your ward?—A. Dr. Reyburn, once; then——

Q. Who has particular charge of your ward now; Dr. Purvis or Dr. Glennin?—A. Dr. Purvis.

Q. Do they keep your ward clean?—A. Yes, sir.

Q. What do they do to keep it clean?—A. Scour it, mop it every week.

Q. Do they change the beds?—A. Yes, sir; change them every Monday.

Q. Do they change your clothes?—A. Yes, sir; every Monday, sometimes Saturday night.

Q. How long have they been doing that?—A. They have been doing

that ever since I have been here. We have had our beds changed every week.

Q. They used to have the same care in that way that they now have? —A. Yes, sir; it has been the same ever since I have been here.

Q. What kind of food do you get?—A. I get very good food, provided it was cooked to suit me. I have no fault to find. I get plenty if it was cooked right.

Q. What is the matter with the cooking?—A. They do not cook it done half the time.

Q. What is it that is not cooked done?—A. Our beef and sometimes our pork.

Q. Is it roasted or boiled?—A. Most of it boiled.

Q. And it is not boiled enough?—A. It is not boiled enough.

Q. Is it any different in that respect now from what it formerly was?—A. I ko not think it is any more done than it always was.

Q. You think the beef never has been boiled enough?—A. No, sir; hardly ever boiled enough. If I die the next minute, I will tell the truth. It is not cooked right.

Q. Are you a cook yourself?—A. No, sir; I have been a cook, though.

Q. How is it about the bread?—A. The bread is tolerably good. I have no fault to find with the bread.

Q. How about the corn-bread?—A. We get good corn-bread. Sometimes we get baker's bread. For my part, I do not eat baker's bread; they give me biscuit.

Q. Are the biscuits good?—A. Yes, sir; and I have a piece of corn-bread. I am fond of corn-bread. They give me a piece of corn-bread every day, any time I like to have it.

Q. Do you ever eat hominy?—A. Yes, sir.

Q. Is the hominy good?—A. Sometimes; sometimes it is done, and sometimes it is not.

Q. You think the food is not cooked quite enough?—A. It is not cooked enough.

Q. And never was?—A. I cannot see that there is any difference. I do not wish to tell a lie, noway.

Q. Of course not.—A. I would not speak against them if they do right, and I do not want to speak if they do wrong.

Q. You think the cooking is no better now than it was before?—A. No, sir; it is just the same, I think.

GEORGE CHAPMAN (colored) sworn and examined.

By Mr. SARGENT:

Question. What position do you hold in this Freedmen's Hospital?—Answer. Steward.

Q. What is your duty as steward?—A. My duty is to receive things, and weigh them, and issue them out.

Q. Do you receive all the food?—A. Yes, sir.

Q. Do you weigh it as it is received?—A. Yes, sir.

Q. Do you ascertain the amount?—A. Yes, sir.

Q. Do you keep an account?—A. I return the amount. I do not keep any book of it.

Q. To whom do you return?—A. To Dr. Glennan.

Q. What do you do with it when you receive it?—A. When I first receive it I weigh it. After I weigh it I take the number of pounds or barrels, as it may be, and set it down, and return the written copy of it to the doctor.

Q. Do you issue it to the cooks?—A. Yes, sir.

Q. Do you know the quality of the beef that you receive? Do you inspect it?—A. Yes, sir, I do.

Q. State what is received in the way of beef.—A. I receive corned beef and fresh beef. I receive sometimes the round part of the beef and the flank, and sometimes I receive the brisket-pieces, and sometimes I receive pieces of porter-house steak and the second or third joint, the round-pieces.

Q. Are ever any quarters of beef brought?—A. Sometimes.

Q. What is the quality of that meat generally?—A. Very good quality.

Q. Do you ever get any heads?—A. No, sir.

Q. Jaw-bones or pieces of heads?—A. No, sir; never.

Q. Have any such ever been received?—A. No, sir; I never received any.

Q. How long have you been steward?—A. I have been steward of this hospital four years and nine months, I think.

Q. Has it been your duty always to receive the meat?—A. Yes, sir.

Q. You never have received any such pieces?—A. I never received any heads or jowls since I have been here.

Q. Does it all pass through your hands?—A. Yes, sir.

Q. Have you ever received any that turned out to be tainted?—A. No, sir. Have I ever received any that turned out to be tainted?

Q. Or tainted when you got it?—A. No, sir; but I have had meat here that has been tainted; small quantities of it.

Q. Tainted after you got it?—A. It got tainted after I received it. That was on account of the hot weather last summer and not having a sufficient quantity of ice. Sometimes we keep it over Saturday night. Small quantities will get tainted, and in that case I did not touch it.

Q. Do you know of complaint being made once or twice of tainted meat?—A. I have heard once, I think, complaint; but at that time I did not know how it was. I could not account for how it was that tainted meat got in the ward; but there was a little here once I know, and I examined it very closely, and I took all the tainted meat out. I think there was about six or eight pounds of it. I never saw any that was tainted when I got it.

Q. Have you always been as careful in receiving meat and other provisions as you are now?—A. Since I have been here, just the same always.

Q. What kind of mackerel do you receive?—A. No. 3.

Q. What is the quality of No. 3 mackerel?—A. They are very good mackerel for the number.

Q. Those are branded by the person who puts them up?—A. Yes, sir.

Q. Is there any supervision of that at the market?—A. No, sir.

Q. No. 3, you say, is a good quality of mackerel?—A. Yes, sir.

Q. Is there a better quality of mackerel?—A. No. 1 is the best.

Q. And then No. 2?—A. Yes, sir.

Q. And No. 3 is a good quality?—A. Yes, sir.

Q. The others are extra, are they?—A. Yes, sir.

Q. Which is the largest size, do you know?—A. No. 1.

Q. They run by sizes, do they?—A. Yes, sir, according to number.

Q. No. 3 is smaller, but is as sweet?—A. Just as sweet.

Q. Is the mackerel you receive sweet?—A. Yes; perfectly sound, good mackerel.

Q. What is the quality of the hominy you have been receiving?—A. The hominy has been very good.

By Mr. ALLISON:

Q. From whom do you get it?—A. Sometimes from Barbour & Hamilton and sometimes from Whitmeyer.

By Mr. SARGENT:

Q. Are they merchants on the avenue?—A. Barbour & Hamilton are; Whitmeyer is about Twentieth street and the avenue.

Q. Have you ever noticed the manner in which this food is cooked?—A. Yes, sir.

Q. How is it cooked?—A. It is cooked very good.

Q. Some patients have said that the beef was not cooked enough, and the hominy not cooked enough?—A. Sometimes it has been the case that it was not cooked so good as at other times; but still I always endeavor to have it as good as I can. Sometimes it comes late; but that does not occur once hardly in a year.

Q. Do you overlook the cooking?—A. Yes, sir.

By Mr. ALLISON:

Q. Are you a cook yourself?—A. Yes, sir.

By Mr. SARGENT:

Q. As a rule you think the food is well cooked?—A. Yes, sir; it is.

Q. Have you the same cooks now you formerly had?—A. Yes, sir; the cooks here now were here when I first took charge, and I think they had been here for years before I came.

Q. How many cooks have you?—A. Five.

By Mr. EATON:

Q. Men or women?—A. Women and men both.

By Mr. SARGENT:

Q. How much flour is delivered to the hospital in a month?—A. Five barrels.

Q. Where is the rest of it delivered?—A. To Mr. Kaiser, between Sixth and Seventh streets. He is the baker.

Q. Does he bake the bread?—A. Yes, sir.

Q. What is done with the other five barrels delivered here?—A. Baked up and used for the use of the ward patients.

Q. Is it all used up for that purpose?—A. Yes, sir.

Q. Does it all pass through your hands?—A. Yes, sir.

Q. I see on the first page of the last annual report for 1877, the following:

The Colored Orphans' Home and Asylum, containing about one hundred and fifteen, children and attendants, has been furnished with medicines and medical attendance during the year, and subsistence has been furnished to twenty-five of them, who are included in the aggregate number of this hospital.

In what form do you furnish subsistence for the children of the Colored Orphans' Home?—A. We furnished them bread and furnish them part of the meat they used there, and all the sugar and tea up to July last.

Q. Was it stopped last July?—A. About that time, I think.

Q. Had the Colored Orphans' Home been part of this institution since you have been connected with it?—A. I issued rations to it just the same as I did to this institution up to July last.

Q. Had you always done that?—A. Yes, sir.

Q. Under Dr. Reyburn?—A. Yes, sir.

Q. That always has been done?—A. Yes, sir.

Q. You do not know under what law that was done?—A. I do not.

Q. Do you know why it was stopped last July?—A. I do not.

Q. Was that furnished out of the flour that comes to the institution or the bread that is made by this baker?—A. Out of the bread that comes from the baker.

Q. What is the quantity of the bread that goes onto the table in the mess-room of the patients? How much is allowed to each patient?—A. Four ounces.

Q. At each meal?—A. Yes, sir; they get four ounces, and if they want more they can get it.

Q. Do you know of their asking for more?—A. Yes, sir.

Q. Did you ever know of their being refused more?—A. No, sir.

Q. In no instance?—A. No, sir.

Q. What is the quality of your corn-bread?—A. It is a very good quality of corn-bread.

Q. Is the bread well baked?—A. Yes, sir.

Q. Is there any article of food that a patient asks for that he does not get—I mean any additional quantity of it?—A. No, sir; I never knew of a case of that kind since I have been here.

By Mr. EATON:

Q. Suppose a man wanted more beef or more fish than was given him on his plate, would he get it?—A. In that case, about the meat, if he wanted more and we had it, of course I would give it to him.

By Mr. SARGENT:

Q. That is if you had it cooked?—A. Yes, sir; if we had it already cooked we would give it to him.

By Mr. ALLISON:

Q. Who has charge of placing the food on the dining-room table or mess-room table?—A. A man by the name of Gray.

Q. From whom does he receive his orders. Do you direct him about that?—A. Yes, sir.

Q. Have you any orders or do you give any orders that additional food shall not be placed upon the table if required?—A. No, sir; I never had any such orders and never gave such orders to anybody.

Q. Do you always have an abundance of bread?—A. Yes, sir.

Q. You always have a sufficient supply of baked bread?—A. Yes, sir; when we do not have enough baker's bread we bake the flour we get here. If bread is short in the morning we bake it, and if it is short at dinner-time we make corn-bread.

Q. Is the bread delivered every day?—A. Every day.

Q. At what hour of the day, generally?—A. About half-past eight o'clock.

Q. How much bread do you require to be delivered each day—is it dependent upon the number of patients?—A. Sometimes 160 and 165—just now 165 loaves.

By Mr. EATON:

Q. Pound-loaves?—A. Yes, sir.

By Mr. SARGENT:

Q. Is the bread sweet?—A. Yes, sir; good bread.

By Mr. ALLISON:

Q. You say now 165 loaves; have you increased the number of loaves lately?—A. Yes, sir; I think I have.

Q. How many?—A. Ten.

Q. Why did you do that?—A. Because a number more patients came in. We increase or decrease it as patients come in or decrease.

By Mr. SARGENT:

Q. Do you eat in the mess-room?—A. No, sir.

Q. Where do you eat?—A. I eat at the steward's table.

Q. Is there any distinction made between the food that the nurses get and the food that the patients get in the mess-room; and, if so, what?—A. No, sir; I do not think there is any material distinction.

Q. Do they get the same breakfast and dinner?—A. The same breakfast.

Q. And the same dinner?—A. The same dinner.

Q. The same articles and the same quality?—A. Yes, sir; but those that have to work get more.

Q. Because they need more?—A. Yes, sir; they need more.

Q. And do they eat more?—A. Yes, sir.

Q. To satisfy their hunger?—A. Yes, sir.

Q. But the others get all they need, and do not complain?—A. No, sir; once in a while somebody will complain, but what I mean to say about not hearing complaints is that it is not a general thing that I hear any complaint at all made by anybody.

By Mr. ALLISON:

Q. Do you remember the number of pounds of beef you have brought here each day?—A. Now?

Q. Yes, now; how many pounds were brought here this morning, for instance?—A. Two hundred and sixty pounds.

Q. Is that the usual amount brought each day, or nearly so?—A. No, sir; we do not use the same quantity of beef every day; to-morrow is Sunday.

Q. That is for two days?—A. Yes, sir.

Q. Have you increased the quantity of beef to be delivered in any way within the last two or three months?—A. No, sir; we only increase it as the number of patients increases.

Q. Have you had an increased number of patients lately?—A. Yes, sir.

Q. And you only increase it in proportion to the number of patients added?—A. Yes, sir; the orders I had are, when the patients increase ten we increase the quantity ten pounds, and if they decrease that many we take off that amount.

Q. Do you estimate the amount of beef each day as a pound a day for a patient?—A. No, sir.

Q. How much for each patient do you estimate?—A. Six ounces.

By Mr. SARGENT:

Q. Did you always have that estimate?—A. Yes, sir.

Q. There has been no change in quantities and qualities in proportion to patients?—A. No, sir; I have no orders to make any change.

Q. You buy no articles you did not buy three or four or six months ago?—A. No, sir.

By Mr. ALLISON:

Q. Is there any limitation as to the quantity of coffee?—A. Patients get twelve ounces of coffee, and if they want more they can get it.

Q. That is, you deliver out to the cooks that much each day for a patient?—A. Yes, sir.

Q. Do you weigh it or just estimate it?—A. Weigh it.

Q. You weigh it out in specific form?—A. Yes, sir.

Q. Do you follow up the cooks to see that they do it?—A. Yes, sir; I am right in the kitchen and see that the cooks issue it out to the wards.

Q. You see that it is all properly disposed of and issued to the cooks?—A. Yes, sir.

By Mr. EATON:

Q. In what shape does your coffee come; in sacks?—A. Yes, sir.

Q. Do you burn it yourselves and grind it?—A. Yes, sir.

By Mr. SARGENT:

Q. What is the quality of the coffee?—A. Very good Rio coffee.

By Mr. EATON:

Q. No chickory?—A. No, sir.

Q. Nor beans?—A. No, sir; not with the coffee.

By Mr. ALLISON:

Q. Do you mean to say that you give each patient twelve ounces of coffee a day?—A. No, sir; twelve ounces a week. They have coffee once a day and tea once a day.

JOHN FANTEROY (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you one of the cooks?—Answer. Yes, sir.

Q. How long have you been a cook in this institution?—A. Eight years.

Q. What do you cook?—A. We have chickens and beef and mutton.

Q. Are you the head cook?—A. Not exactly head. Mr. Chapman sees to everything; but I have it all go through my hands.

Q. Do you assist in cooking everything, or do you have particular things alone to cook?—A. Everything about the diet that goes to the wards.

Q. You cook for the wards?—A. Yes, sir.

Q. Do you cook for the wards or for the mess-room?—A. For the wards.

Q. Do you cook hominy?—A. Yes, sir.

Q. Do you cook it thoroughly or not?—A. I cook it thoroughly.

Q. How long do you cook your hominy?—A. Put it on before evening, between three and four o'clock, and let it stay on the fire till next morning.

Q. Does it boil all night?—A. Yes, sir; put it on the range and keep a steady fire.

Q. Does the fire ever go out at night?—A. No, sir; never entirely out.

Q. Some of the women patients, or one of them, said that the hominy was not thoroughly cooked. How is it about that?—A. She was mistaken in that. I do not know exactly how it is, but I know it is cooked thoroughly.

Q. Is it cooked as long as it is usual to cook hominy?—A. Yes, sir. It is always cooked about twelve hours; it is put over the fire at night and let stay until next morning. That was the way in the country always where I came from.

Q. You have done that ever since you have been here?—A. Yes; for the last eight years.

Q. Do you have anything to do with boiling the beef?—A. Yes, sir; one part of it for the ward.

Q. How long do you boil that?—A. We boil beef between three and four hours. We put it on in the morning about eight and a half o'clock and let it stay until about half past eleven, sometimes very near twelve.

Q. With a brisk boiling fire?—A. Gradually boiling. We bake beef and we boil it.

Q. Is that long enough to boil beef?—A. Yes, sir; I think it is, to be thoroughly done.

Q. You think that will thoroughly do it?—A. Yes, sir.

Q. The complaint of the cooking, so far as we have been able to find out, is that you do not cook things enough. What do you say about that?—A. That would not be said by all. There has been complaint ever since I have been here, first one way and then the other.

Q. You think they are not very contented people?—A. No, we cannot content them.

Q. You think, as a cook, that you cook these things as long as you ought, to have them good?—A. Yes, sir.

Q. Is the cooking the same during the last two or three months as it was the last year, and before that?—A. Yes, sir; pretty much the same. There has not been much change. Of course, in some few things there has been a little change, such as custards and things like that. They have an extra cook for that.

Q. That is for the quite sick patients?—A. Yes, sir.

Q. But the general food of the hospital for the wards is the same?—A. Ever since I have been here it has been pretty much the same thing.

Q. And cooked the same?—A. Yes, sir.

Q. Do you have anything to do with cooking the potatoes for the wards?—A. Yes, sir; I cook potatoes for the wards.

Q. How do you cook them?—A. I pare them, then boil them, and mash them up.

Q. And they are sent in that shape to the wards?—A. Yes, sir.

Q. Do you ever send them with the jackets on?—A. Yes, sir; when they are new, in the summer time—when they first come in.

Q. You cook new potatoes with the jacket on?—A. Yes, sir.

Q. What is the size of the potatoes you send to the wards?—A. Medium size.

Q. Do you know how many are allowed to a patient?—A. Two and three; two potatoes, when very large.

Q. Mr. Robert Johnson says that there is only one allowed, and that a very little one. Is that true?—A. He made a mistake about that. They have to bring them back from the wards and throw them away at last into the swill.

By Mr. ALLISON:

Q. What is the character of the beef that you get?—A. Good beef. I do not say it is the best quality, but it is good beef.

Q. What is it? Do you get full quarters of beef?—A. Sometimes we get full quarters, and sometimes a hind quarter. We get what is called the sirloin.

Q. The general quality is good?—A. The general quality is good. I do not call it the best quality of beef.

Q. It is good of the kind?—A. Yes, sir.

Q. Are you in the habit of cooking tainted beef; that is, beef that smells badly; have you ever cooked such beef as that?—A. I tell you

how that was. We had some once or twice. In the summer time, when you get beef Saturday evening and keep it in the ice-house until Monday morning, it is not very good then.

By Mr. SARGENT:

Q. About how often has that happened?—A. About once or twice or three times, perhaps, from my recollection.

Q. When was that?—A. That was here in the summer in July and August. Now and then a piece will get that way. It stays on the ice.

By Mr. ALLISON:

Q. Have you noticed any change lately in the character of the beef that you get?—A. They get pretty much the same beef. Sometimes, as I say, we get a good piece of hind quarter, the best quality, and then again it will not be so good; but still always good meat.

Q. It averages about the same?—A. Yes; about the same.

By Mr. EATON:

Q. How often do you get the heads of oxen to cook?—A. We never get them. I have never seen one brought here.

Q. Did you ever see any jaws, or under jaws, of oxen?—A. Not of oxen; I have seen some tongues. There is a difference between the tongue and the jaw.

By Mr. SARGENT:

Q. Did you ever see or know of the udder of a cow being cooked?—A. Yes; I have seen that here, but they did not send that in the weight, so the butcher says.

Q. What do you do with that?—A. We cook it.

Q. How often?—A. Just when it comes; we objected to it, and they do not send any now.

Q. When did they send it last?—A. About last June, I think; I have not seen any since June or September, I think.

Q. How often?—A. The last piece I know of was here last September; but there has been none since.

Q. Was it frequent before that?—A. No; now and then you would see a piece, just like you would go to market and they would throw in a piece extra for you.

LIZZIE GRAY (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you a cook here?—Answer. Yes, sir.

Q. How long have you been a cook here?—A. I have been cooking here eight years.

Q. Are you a general cook, or do you have particular things to cook?—A. I am assistant cook. The man who went out of here just now is kind of head; I am assistant, for the employés.

Q. What do you cook?—A. I cook meat, bake meat, bake biscuit, and things like that.

Q. What kind of meat do you cook?—A. Beef, and pork sometimes.

Q. What part of the animal?—A. Sometimes quarters and middlings, and every part like that, shoulders, &c.

Q. Did you ever cook any heads?—A. No, sir, never.

Q. Is the meat good, generally?—A. Very good meat lately.

Q. How was it formerly?—A. Formerly we have had some meat that was a little bad.

Q. What was it, and when?—A. About last fall, I reckon.

Q. What did you have then?—A. We had meat that was a little kind of tainted—when it was very warm, though. We generally have ice to keep it on.

Q. How often did you have tainted meat?—A. Twice.

Q. Was all the meat that you got tainted?—A. It was not so that they could not eat it.

Q. How much of it was tainted?—A. It was when it was so warm. After that we got more ice, and then could keep it good. When the weather is so very hot people would almost die, we could not keep anything.

Q. Did you eat part of the meat?—A. I cooked some of it.

Q. Did you eat it?—A. Yes, sir; I did eat it.

Q. It was not so that you could not eat it?—A. It was not so nobody could not eat it if they wanted to.

Q. That happened twice?—A. Yes, sir.

Q. Do you cook corn-bread?—A. Yes, sir.

Q. How do you cook it?—A. I put grease in it and stir it up.

Q. What else do you put in?—A. I do not put anything else but grease.

By Mr. ALLISON:

Q. Do you not put any eggs in it?—A. Sometimes when I make bread for the little table I put eggs in it. We cannot afford to put eggs in all, as many people as we have.

Q. Have you plenty of eggs always?—A. We have plenty of eggs. Sick people have them generally. Some have them boiled, some have them fried.

By Mr. SARGENT:

Q. Do you cook the hominy?—A. No, sir; the man cooks the hominy.

Q. Do you have anything to do with the sauce that is put over the hominy?—A. I put it on.

Q. What is the sauce?—A. We take butter and lard and make a little sauce to put over it. It is good enough for anybody to eat if they want to.

Q. You put in butter and what else?—A. A little lard, and mix it right fine. It is good enough for anybody to eat.

Q. Good, sweet sauce, is it?—A. Yes, sir; very nice.

Q. Do you think it right to call the sauce you put on the hominy "dirty old slops"?—A. No, sir; I do not call it dirty old slops.

Q. You think that it is good?—A. Yes, sir; real good.

Q. You use it?—A. Yes, sir. Anything I eat I think anybody else can eat.

Q. Do you eat any of it yourself?—A. Yes, sir; always. I taste it to see whether it is good or not.

Q. Is the bread that is baked and brought here sweet bread?—A. We have very nice bread here lately.

Q. How was it formerly?—A. We were complaining last fall very much about the bread being sour.

Q. Was it sour?—A. A little sour, but never so that we could not eat it.

Q. Was it sour all the time?—A. No, sir. As soon as we found it out we just stopped, and they brought us nice, fresh bread.

By Mr. ALLISON:

Q. How was it last spring?—A. It was just as I tell you. Only lately, last fall, they were complaining about it, and I said to myself it was not so that I could not eat it.

By Mr. SARGENT:

Q. You do not have anything to do with baking that?—A. No, sir; that is all done outside.

ANNA M. POWELL (colored) sworn and examined.

By Mr. SARGENT:

Question. Are you a cook at the Freedmen's Hospital?—Answer. Yes, sir.

Q. How long have you been?—A. I have been here since last June.

Q. Are you a cook or assistant cook?—A. I have charge of the extra diet.

Q. What is that extra diet?—A. It consists of delicacies for the sick—custards, beef-tea, and so on.

Q. Were you put in charge of it last June when you came?—A. Yes, sir.

Q. Has it been just the same ever since last June?—A. Ever since. I was sick a few weeks and another woman was there then.

Q. But when you came last June, you were put to cooking this extra diet?—A. Yes, sir.

Q. That was long before any investigation?—A. Yes, sir; before the investigation started.

Q. You are doing now just what you did then?—A. Yes, sir.

Q. And just in the same way?—A. Just the same.

By Mr. EATON:

Q. Has there been no change at all?—A. No change.

GEORGE GRAY (colored) sworn and examined.

By Mr. SARGENT:

Question. What is your duty at the hospital?—Answer. Attending to the dining-room.

Q. What is the quality of the food in the dining-room given to the patients?—A. It is good quality.

Q. Do the patients have all they want to eat?—A. Yes, sir.

Q. Have you ever known of any complaint on their part?—A. I have; but then recollect the place I am in. If I say I hear complaints, I must keep these things, because I have to attend to them. One likes one thing and another does not like it, but generally they have enough; but some do not like one thing and some do not like another.

Q. Suppose a patient wants more bread, does he get it?—A. Yes, sir.

Q. Have you ever refused a patient bread when he wanted it?—A. No, sir.

Q. How much bread do they have?—A. A pound pone of light bread, cut into four slices.

Q. Suppose a man eats up his bread and asks for more, do you give it to him?—A. Yes, sir.

Q. Is there any difference in the quality of food, or the cooking of it, between what is furnished to the patients in the mess-room, and to the nurses who eat there?—A. Yes, sir; it is cooked in a little different shape.

Q. What is the difference between them?—A. In the dining-room it is boiled straight without being baked. We have boiled; on the other side, they have baked things—baked beef and potatoes.

Q. What is the quality of the meat?—A. The meat is generally good at this time.

Q. When was it not good?—A. It has been some time ago that it was poor, and, as they say, salty. That was one of the complaints.

Q. Do you mean salty corned beef?—A. It was not the corned beef, but the bacon.

Q. They complained that the bacon was salty?—A. Yes, sir.

By Mr. ALLISON:

Q. Too much salt?—A. They complained there was too much salt.

By Mr. SARGENT:

Q. Did you taste the bacon?—A. Yes, sir.

Q. How was it to your taste?—A. It was salty.

Q. Was that uniformly so, or only on that occasion?—A. It was only at times it was that way.

Q. Do they have the same bread at both tables?—A. They have the same bread.

Q. The same corn-bread?—A. That is in the full diet. In the ward diet, they have light bread generally all the time, except those who want corn-bread; and in the dining-room they have light bread one time and at other times corn-bread.

Q. Do they get the same bread at the nurses' table that they do at the patients' mess-table?—A. Yes, sir; the same bread.

Q. The same corn-bread?—A. The same corn-bread.

Q. The same hominy?—A. The same hominy.

Q. The same meats, except that you say the beef is boiled in one case and baked in the other?—A. Yes, sir.

Q. The same mackerel?—A. The same mackerel.

Q. What is the breakfast at the patients' mess-room?—A. Monday morning it is hominy and bacon and light bread and coffee.

Q. What is it other mornings?—A. Tuesday morning it is generally rice, butter, and coffee, and light bread.

Q. Wednesday morning?—A. Wednesday they have hash, and butter, and coffee, and light bread.

Q. Thursday?—A. Thursday morning they have rice, molasses, butter, and light bread.

Q. Friday?—A. Friday they have rice, molasses, butter, and light bread.

Q. Saturday?—A. Saturday we generally have for breakfast hominy, bacon, and bread and butter.

Q. And coffee every morning?—A. Every morning coffee.

Q. Now, Sunday morning?—A. Sunday morning they generally have hash, butter, light bread, and coffee.

Q. How long has that been the course of food?—A. Since they have been having meat for breakfast; since the first of the fall.

By Mr. ALLISON:

Q. What sort of meat?—A. Bacon.

Q. You did not have bacon formerly?—A. Not before that.

By Mr. SARGENT:

Q. That is the only distinction?—A. Yes, sir.

By Mr. EATON:

Q. Four years ago when Dr. Reyburn was here, how was it then?—A. For breakfast then we only had hominy, bread, and coffee.

Q. It has been better since then?—A. Yes, sir.

By Mr. ALLISON:

Q. The hash you have twice a week, has that always been so?—A. There has always been hash.

Q. Do you have any cooked meats for breakfast except bacon?—A. No, sir; not in the dining-room.

Q. And never have had?—A. No, sir.

Dr. G. S. PALMER, recalled.

By Mr. SARGENT:

Question. I want you to explain with reference to an article published in the Evening Star of last evening, under the head of "Freedmen's Hospital," where it speaks about the flour used at the hospital, and I will read a part of this article. After saying that there is "a flour mystery," it says:

It seems that in January, 1877, 45 barrels of flour were provided for 279 patients; in March, 45 barrels for 293 patients; in April, 52 barrels for 285 patients, while in August, with 255 patients, only 19 barrels were purchased, and in September, with 246 patients, the amount was 28 barrels.

Referring to three doctors belonging to the Interior Department who were required by Secretary Schurz to make an investigation into the hospital:

The doctors are prompt with their explanations. One suggests that when flour was low Dr. Palmer made contracts and purchased in excess of use; but, when questioned, he is constrained to admit that he has no knowledge of any accumulation of flour at the hospital, and had not examined to find whether flour had depreciated in the months in which an excess was supposed to have been bought. Secretary Schurz soon gives this explanation its quietus, by showing that from July, 1874, to July, 1877, the number of patients was about the same, between 296 and 270, and the number of barrels furnished was between 44 and 52; and that no accumulation appeared in the whole period. Another doctor steps into the imminent deadly breach and suggests that the colored orphan asylum was furnished with bread until the first of July, and that when this supply was discontinued less flour was needed. It is now developed by close questioning that no authority was discovered for furnishing bread to the asylum. When the doctors are shown that in July 41 barrels of flour were provided, showing only an inconsiderable decrease from the preceding month, they discover that the asylum was not dropped until the 1st of August; but to explain how it was that 28 barrels were required for 246 persons in September, and only 19 barrels for 255 persons in August, even the orphan asylum is of no avail. One of the doctors now figures that the asylum would require a barrel of flour a day, or 30 barrels a month. When it is pointed out to him that this estimate would allow considerably more to each orphan than to each grown inmate of the hospital, he remarks sententiously: "Children growing require as much food as laboring men." All the explanations being unsatisfactory, it still remains a mystery how 44 barrels of flour should be required in one month and only 19 in another for the same number of patients.

Make a statement of the truth in regard to the purchase of flour, and its use, in connection with the statement herein made?—Answer. The flour has been purchased each month as it has been needed. The flour has never been brought to the hospital, except a barrel or two, and sometimes three, for special use in the hospital in baking. The flour has been carried directly from Mr. Galt's, the party of whom I purchase the flour, to the baker, and occasionally the flour runs low toward the end of the month, and it requires an additional supply at the end of the month, and that is charged in the month in which it is ordered. On the subsequent month there is always a less quantity than in the month in which the larger amount was ordered. For instance——

By Mr. EATON:

Q. Take these identical months and explain them?—A. Yes, sir; in July, 1877, on the 27th day of July, I thought flour was going to rise

and I ordered twelve barrels of flour on that day. The supply for the month was already in. That, added to the flour that had already been purchased and sent to the baker, made forty barrels. One barrel was sent to the hospital. In the next month those twelve barrels were used, and that, added to the sixteen, make twenty-eight barrels used by the baker that month, and that taken from the forty leaves twenty-eight barrels for July, making the two months exactly equal. Any one hundred days taken together, the average will be the same. If the books are examined and the accounts of the party of whom we purchase the flour and our own books and vouchers, they will come very nearly the same amount in every one hundred days. By taking two consecutive months you cannot tell how much is used in each month by the accounts; but the whole amount that is used in three months will show the average.

Q. Take three or five months and you will get it?—A. You will get an average of the quantity used in the hospital for the time.

By Mr. SARGENT:

Q. So you say that from January, 1877, down to the present time, if you will take the amount used for each three months of that time, there will be the same average during the year?—A. Yes, sir.

Q. By taking two months together it might be shown that there was a greater or less amount; but taking three months together, it will be shown that the average is the same?—A. Yes, sir.

Q. Have you ever had any flour delivered that was not used for the purposes of the hospital?—A. No, sir.

Q. In your annual report you say something about furnishing rations, &c., to the Children's Colored Home; was that ever part of this hospital?—A. When this hospital was established, this hospital had of its inmates, of those who were carried on its rolls, eighty children that were kept up there, and rations were supplied them. They were part of the hospital. The ladies who had control of that could manage the children better there than they could be managed here, and the older patients were kept here and the children put there. They have been carried along, but have gradually diminished until, in 1876, they got down to twenty-eight, and then to 25, and finally, this year, I discharged them altogether.

Q. So that it was in carrying out the business of the hospital as you found it when you came here that you furnished these rations?—A. Yes, sir.

Q. But on account of the age that the children had attained in July you discharged them?—A. Yes, sir.

Q. Were the rations, &c., that you furnished delivered into the hands of the ladies who have charge of that institution?—A. Yes, sir; and the matron of the institution.

Q. You have no interest in it?—A. None.

Q. Do you have the handling of any money whatever belonging to this institution?—A. None at all.

Q. The vouchers are passed upon in the Interior Department?—A. I have handled only $29.70 of the hospital money and $10 more. Thirty-nine dollars and seventy cents is all the money that has ever passed through my hands since I have been in charge of the hospital.

Q. How did you get that money?—A. I got that money from the sale of two worn-out horses, and I have the Treasury receipt for that. It was turned into the Treasury, and I have the receipt for it. Ten dollars was taken for a patient who, after he came here, was found to be

able to pay his bills, and that I have on hand now. It has never been turned in. That will be turned in at the end of this month.

Q. When did you receive that?—A. I received that in January, I think. I am waiting to turn that in.

Q. But the expenditures for the institution do not pass through your hands at all?—A. Not at all.

Q. If there is any swindling in the purchase of flour or in delivering more than is necessary for the institution, that swindling must be with the connivance of Galt & Co., with whom you trade?—A. There must be that connivance. Then, here is a little book which Dr. Glennan has kept in which he has kept all the barrels of flour received, the number of pounds of flour, and then the number of pounds of bread which have been received daily; it has been kept here in the hospital for years, ever since the hospital was established.

By Mr. EATON:

Q. I see that your report shows the number of pounds of bread that a barrel of flour will return?—A. Yes, sir; and we keep it in this book. This book corresponds, no doubt, with the vouchers and with the books of Galt & Co., who charge the flour to the concern.

By Mr. SARGENT:

Q. We want a statement from those vouchers and an opportunity to examine fully the original vouchers, but I wish to ask another question now. It is stated in this paper that the doctors who made the investigation, at the request of Secretary Schurz, "find a difficulty in making it perfectly evident why they took no notice of the fact that an assistant engineer, discharged in May, 1875, was borne on the rolls at the rate of $75 a month until October, 1875." What is the fact in reference to that?—A. When I came here there was an engineer and an assistant engineer. The assistant engineer was receiving $25 a month; he and the engineer did not agree very well. I kept him along to take charge of the engine at such times as the engineer was off, and finally he was discharged in October, when his last voucher was paid, and he received every dollar of the money for which vouchers were drawn. Nobody else could draw his money but him.

Q. He was not discharged in May, but was discharged in October?—A. He was discharged in October.

Q. Did he work up to October?—A. He worked up to October.

Q. It says here at the rate of $75 a month?—A. It was $25 a month.

Q. Something is said here about the purchase of eggs for the hospital. It is said, "It appears that from 110 to 190 dozen eggs a month were purchased, an average of more than half a dozen a month to each inmate."—A. In regard to the eggs, I will say we use a large quantity of eggs as a proper article of diet for the sick, and find them an economical article of diet too. We issue for the ward diet 276 eggs, 24 dozen per week; for custards and corn-starch we use 84 eggs a week; for the nurses' table 48, that is four dozen, on Sunday morning, and for the steward's table one dozen on Sunday morning; and for the dispensary, to make cod-liver emulsion and milk-punch, 28 eggs a week, making 508 eggs a week, that, multiplied by four, gives 2,032 eggs in the four weeks; divided by 12, it gives 170 dozen of eggs in four weeks. That is about the average.

By Mr. EATON:

Q. For a month would be a little more?—A. Yes, sir; some months it runs up from that and some months it runs down; that is about the average of the eggs we use here in the hospital.

By Mr. SARGENT:

Q. Could you get along with less eggs than you use here?—A. We could, but I fear they would call it starvation diet.

Q. Did you have anything to do with the appointment of those doctors who were selected by the Interior Department to make the examination of this hospital?—A. I did not.

Q. Did you know them before?—A. I knew only one of them. I have met Dr. Walsh once. I had some acquaintance with Dr. Hood, but with Dr. Ewing I had no acquaintance; I only knew him when I met him. I was informed that they were good men. When I found that the investigation was going to take place, I asked the chief clerk if they had appointed a good committee. He said they had a good, honest committee. I said, "Then I am satisfied." That was all I knew of it.

Q. The jury was not passed upon by you or selected by you in any way?—A. Not at all.

THURSDAY, *February* 28, 1878.

The subcommittee met at the room of the Committee on Appropriations.

JAMES P. HERRON sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. I reside in Washington City, on Eighth street northwest, No. 922, between I and K streets.

Q. Did you have anything to do with softening some palm pulp, in order to make paper, at the Freedmen's Hospital?—A. Yes, sir; stems and leaves.

Q. With whom did you make an arrangement for that purpose? Relate all the circumstances.—A. It was about two years ago, along in March, I suppose. Before that time we had been making some tests here at Pettit & Dripps's. We failed there in power, and in looking round the city for some place to get some steam where we could do some steaming, and also for an engineer to take something of charge of that department, I, in calling out at the Howard University, fell into the room where they had their engine, and looking there with Mr. Calvert, we found that there were some old tubs, or washers you might call them, that had pipes and steam connected with them, that could be used for that purpose. There was one they were not using; it was old and leaked somewhat; the inside was a revolving machine that could be lifted out. We decided that that could be used for our purpose, just lifting that out. Mr. Calvert told me they never used that washer.

Q. What was the steam that was used there?—A. Steam was used from their boiler that they used there for washing purposes and other purposes; I do not know what.

Q. Was extra steam made for you?—A. I do not think there was any extra steam made. We had that understanding in the first place, that it would not require any extra steam.

Q. Who told you it would not require extra steam?—A. Mr. Calvert said it would not be any loss. When we concluded that it could be done there, I went to Dr. Palmer, he being in charge there, and told him that there was a chance there of having something of that kind done, and the doctor told me that anything that could be done, so that it would not require any expense to the government or take any of the labor of the employés around the hospital—if it would not inter-

fere in that way, he would be willing should be done. I told Mr. Calvert what Dr. Palmer had said, and he decided that it would not take any at all; that the steam which would be used for that purpose would be just a little from the cooking; that there was that much steam blown off every day, or not consumed every day, and it would really be no expense to the government. He assured me of that.

By Mr. EATON:

Q. Simply the exhaust steam?—A. Simply that. He said that we could use a little of that and it would be no expense, and if it was we could not use it. That was the assurance that I had.

By Mr. SARGENT:

Q. Did Mr. Calvert have any interest in the matter or any offer from the company?—A. He did not have any interest in the matter at that time more than this: I had been looking for an engineer to go to the South and run the machinery we proposed taking there for fibering palm into pulp, and he recommended himself as being a fine engineer, and one who would be the very person to take charge of that work. In that way I had talk with him about giving him a certain interest. I proposed that any engineer who would go into our service in that way we would give him an interest. Mr. Calvert proposed that he would take an interest with us. At that time he had not any, but I made out a paper or two to him afterward for a number of shares of stock, which he never came up to.

Q. Did he ever accept?—A. He never accepted.

Q. Did Dr. Palmer have any interest in it?—A. Dr. Palmer was a member of the company. He was treasurer of the company.

Q. Was the experiment a success?—A. It was a success as far as we were working at that time. It was to know about what amount of per cent. there would be of paper-stalk in the palm, and to pound the stems down to throw them into a condition of the leaves to be used. In that it was very successful.

Q. Is the manufacturing carried on now or has it been abandoned?—A. We just got back last week from the East; we are still maturing it further, and find the experiment to promise very finely. The Crane Brothers have some paper made at the works. It makes bank note paper; can make the finest bank-note paper known to our country.

Q. I understand you made the arrangement with Calvert to use this steam and old tub on his stating it would be no expense to the government?—A. Yes, sir; he assured me it would be no expense to the government, because there was that much waste steam every day. We put the matter into a vessel to cook it that did not take a great deal of steam.

Dr. G. S. PALMER recalled.

By Mr. SARGENT:

Q. Something was said by Mr. Calvert with reference to using the machinery and steam of the Howard University or the Freedmen's Hospital, in a paper operation. What do you know about that?—A. I know that in the spring of 1876, about April I think, Mr. Herron came to me and asked permission to bring some palm there to soften with the waste steam, which was being thrown off every day from the engine. I told him I could not do it if it would be any expense to the government or any damage to anybody else. He said he had had a talk with the engineer about it, and the engineer had assured him that

it would be no expense and no cost to anybody. I then told him that I would see the engineer; I did see the engineer and he told me the same. He said there would not be any cost to anybody. I told Mr. Herron that I would not have it there at all if it would be one cent of expense to the government; I also stated the same distinctly to Mr. Calvert, the engineer, that it should not come there under any circumstances if it was to be any detriment to his operations, or any expense to the government. He assured me that it would not be.

By MR. EATON:

Q. By that you mean, if it would require any additional coal?—A. Any additional coal or any labor or interference in any way. After that assurance I said that I would not interfere if he wanted to make the arrangement, which I understood he did, because he was going to be the engineer for these parties, and talked about taking stock in the company. I told him I was a member of that company, and the company was a losing concern, and he had better not have anything to do with it. He testified to that on cross-examination before the other committee, that I advised him not to have anything to do with taking the stock. I was a member of the company, and the company had lost money in making machinery, and I had lost confidence in the concern. First, Mr. Herron talked of 250 pounds, but I believe he brought another batch, so that it amounted altogether to about 500 pounds. I do not believe to-day that there was one cent of expense to the government; I did not think so then, and do not think so now. I think the same amount of steam which was used in that operation has been lost every day since and was every day before, while the engine has been used for its present purposes. I can show the committee when they come out there exactly the operation that was done. The steam-tub is there. It is an old tub which has never been used, and the pipe that let the steam in is there, and the entire thing, so that they can see for themselves and judge for themselves as to whether there was any expense to the government or not.

By Mr. SARGENT:

Q. Something was said about a piece of pipe, about two feet long I think, that was used on your premises. Do you know to whom that pipe belonged?—A. The circumstances about that pipe are these: I went out to the shed near the engine-room one day and saw a piece of second-hand pipe lying there that I thought would be just what I wanted to fix a fountain with. I asked Mr. Calvert, the engineer, to whom that belonged? He said it belonged to the University. I said to him, "It is just what I want, and I will see Johnson," who is the treasurer of the University and has control of the property, "and I will have that piece of pipe. It is no use to anybody here only for old iron, and I will pay him for it and it will answer my purpose instead of buying new." A few days after that I met Mr. Johnson and asked him if I could have it, and he said yes, and I think something was said about the cost of it. It might weigh thirty or forty pounds, and it would be worth about twenty-five or thirty cents at the rate old iron was going at. He told me I could have it, and I think he said I could have more if I wanted it, at the same rate. Mr. Johnson will be here and he can tell you for himself what occurred.

By Mr. EATON:

Q. It did not belong to the United States any way?—A. No, sir; it belonged to the Howard University.

Dr. C. B. PURVIS recalled.

By Mr. SARGENT:

Question. What do you know about this pulp and the use of steam in the hospital for it?—Answer. During the month of April, 1876, I think, I had a conversation with Mr. Calvert about it. I was walking down near the engine-house and he came toward me, and I saw a man beating or pounding some of this matter in an iron pot. I asked him, "What are you doing down there?" Said he, "We are trying to make pulp out of some palm." Then I virtually asked him if he was doing it at government expense. He said, "It is not costing the government anything; we are just using an old tub with some waste steam in the engine-room." I think he said, "We first press it through an old washer or wringer." Then I was about moving off, and he said to me, "Wait a minute; I want to ask your advice about this. I have been thinking about taking some stock in it. They want me to go down to Florida and become an engineer for them. What do you think about it?" Said I, "What are they going to pay you?" Said he, "They have not said anything about that, but they rather offered to pay me stock." I said to him, "I do not believe you can make paper any cheaper than it is being made now; I would not have anything to do with it." That was all the conversation I had with him about it.

Q. Was there any mistake in a part of your former testimony?—A. In my former testimony I testified that the Howard University did not pay us any salary, nor did I receive any of the matriculation fees; nor did Dr. Palmer; that we gave them to the other professors. I could have added, in addition to the matriculation fee, the graduation fee, but it did not occur to me at the time; after looking over the testimony it did. When the University became embarrassed, I went to Philadelphia, and I saw two or three of my personal friends and they gave me a small sum of money as a nucleus for an endowment. It did not occur to me at the time I was examined before. It does not amount to much, but last year I got the benefit of that and they paid me $110. The fund just now is not in a very tangible shape. That was all I wanted to correct. I did not want to keep anything back.

Q. That comes from private endowment?—A. Yes, sir; a small sum of money; I forgot to mention it the other day, and I wanted to mention it.

Q. Is that what you wanted to explain?—A. Yes, sir. Then there is one other thing; I was asked whether I handled any funds. I said, "Not a farthing." I see in the testimony is added "except a small sum." I do not know what was meant by that unless my salary. I do not handle any money at all other than my salary.

PATRICK H. SHEEHY sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. 2023 Seventh street northwest.

Q. What is your business?—A. Grocery and liquor business.

Q. Do you know Mr. Calvert, the engineer at the Freedmen's Hospital?—A. Yes, sir; have known him about eight or nine years.

Q. Have you at any time had a conversation with him with reference to what would happen, as far as he was concerned, if Dr. Palmer was removed?—A. Yes, sir; on one occasion, before this former investigation took place, he met me in front of my place of business and asked me if I heard about the investigation that was going to take place. I told him

no. He said, "You get this morning's Republican and you will see all the charges." He said, "I am going to give my seven years' experience in the hospital." He thought Dr. Palmer treated him bad by cutting his pay down, I think he said from $80 to $50, and if they were successful, as he thought they would be, he was offered a big inducement; he was guaranteed $100, and probably $150 a month. I did not pay particular attention any more to what the man said, because I was a disinterested party. But it seems somebody found out that he had the conversation with me, and I was summoned in the former investigation.

Q. Did you make this statement in that investigation?—A. Yes, sir.

Q. Did he state who had made this guarantee to him?—A. No, sir; I did not ask him any questions at all about it. He voluntarily told me this himself.

WILLIAM H. HOOVER sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. Butcher.

Q. In what markets do you have stalls?—A. In the Center Market.

Q. Where is the Center Market?—A. The Washington Market, Seventh street and Pennsylvania avenue.

Q. Your stall is numbered 52, is it not?—A. Yes, sir.

Q. Where do you live?—A. I live on the Bladensburg road, in the county of Washington.

Q. Do you do a considerable business as a butcher?—A. Yes, sir.

Q. Do you furnish the meat for the Freedmen's Hospital?—A. Yes, sir.

Q. How long have you furnished it?—A. I think about five or six years.

Q. What kind of meats do you furnish?—A. I furnish good quality of meats.

Q. What articles?—A. I furnish fresh beef, salt beef, mutton, salt pork, bacon, and hams.

Q. What parts of the animal do you furnish for fresh beef?—A. I have furnished sometimes quarters of beef, and, when convenient and the interests of the hospital required, I cut up good-sized pieces, 8, 10, 12 pound pieces of the front and hind quarters.

Q. Is this the kind of meat you sell to your ordinary customers?—A. Yes, sir; from my stall in the market.

Q. Do you always furnish good beef?—A. Yes, sir.

Q. Is it ever tainted when it leaves your place?—A. I have never sent a pound of tainted meat to that institution in my life.

Q. Did you buy a cow of Calvert?—A. I did.

Q. Was that cow diseased?—A. No, sir. I never killed a diseased cow in my life but one, and then I had the board of health to condemn it.

Q. Did you sell any of the meat of that cow that you bought of Calvert to the hospital?—A. No, sir. I was not furnishing meat to the hospital at that time. I have furnished meat to the hospital five or six years, with the exception of five months in 1876.

Q. And during those five months in 1876 you bought that cow Calvert says he sold you?—A. Yes, sir.

Q. And you say that was not a diseased cow?—A. It was not.

Q. Do you ever furnish heads or the lower part of the shank on the hoof?—A. No, sir.

Q. Never have sent anything of the kind?—A. Never sent anything of the kind.

Q. Have you ever sent hearts?—A. I have sent hearts.

Q. How often?—A. Very rarely; not once in three months. I do not suppose in the six years twenty-five hearts ever went out there, because in the winter time the pork-butchers buy all the beef-hearts, and in the summer time we sell them for the chucks, and they bring us 5 cents a pound to the pork-butchers. It is no interest in the world for me ever to send them there. I do not think I ever sent a heart there unless requested by some one. They send to me for liver occasionally, and I supply them with liver occasionally. I do not know how I ever came to send a heart. It is no advantage in the world to me to send it.

Q. Whenever one was sent, you think it was on account of the request of some one that one might be sent out?—A. Yes, sir.

Q. The heart is sometimes cooked at hotels and elsewhere for food, is it not?—A. Yes, sir. There is complaint about tongues, I have heard. I have sent tongues there. I thought I was doing them a favor in doing it.

Q. Do you send udders there?—A. No, sir.

Q. And never have?—A. I never sent an udder of a cow there in my life, unless it went on the hind quarter of a heifer, or perhaps I sent a hind quarter of a cow, the same as I serve any store a hind quarter of beef and send it as it is.

Q. Did you ever send the jowl, the under jaw of beef?—A. No, sir.

Q. You send up wholesome, merchantable beef?—A. I do.

Q. What kind of salt pork do you send?—A. I send as good pork as any gentleman in this room eats.

Q. And mutton?—A. The mutton I send by the side.

Q. Is the salt pork you send of your own curing, or what you buy?—A. No sir; I am in the beef-butchering business.

Q. You buy the salt pork?—A. Yes, sir.

Q. What care do you take to see that it is good?—A. I pay a No. 1 price for it, and I notice and see it. I am a judge of it; I can tell it is good. The gentleman I purchase it from is present here.

Q. The ham and other articles you furnish, you say are good?—A. Yes, sir; there is no gentleman in this room who eats any better ham or pork than goes to that hospital.

Q. What price did you get for the beef you sent during the last two years?—A. Eight cents a pound for the beef; nine for the pork; thirteen for hams, and the same price for mutton as for beef.

Q. Are these reasonable prices for the quantities you furnish?—A. Yes, sir.

Q. As low as they could be furnished?—A. As low as they could be furnished.

Q. Is there any understanding or agreement between yourself and any other person whatever by which that person is to receive any percentage of the money which you get?—A. Not in the least.

Q. And never has been?—A. Never has been.

Q. So far as you know, the trade on behalf of the government with you is honest and square?—A. Yes, sir; entirely so.

Q. Do you salt down beef?—A. Yes, sir.

Q. And furnish some of that to the hospital?—A. Yes, sir.

Q. What is your mode of doing that?—A. The mode of doing that is this: If I killed a bullock yesterday I take him to market this morning. His flanks and briskets I soak in clear water for about an hour to get

the blood out. I then put them in brine. The next day that meat is ready to be sold.

Q. So that it is always fresh salt beef, to use a strange expression?—A. Yes, sir; and you cannot get anything else in this District in the summer time but fresh corned beef.

Q. Something has been said about there having been two occasions last summer when the beef that was served up at the hospital, or some part of the beef served up, was tainted. Was it tainted at the time it left your stall?—A. It was not.

Q. How soon after killing do you furnish beef to the hospital?—A. In the summer time I kill it in the afternoon, and by half past eight at the farthest the next morning it is delivered at the hospital. Dr. Palmer's orders are to have it there at eight or half past eight.

Q. Do you keep it away from the flies?—A. I have a number one ice-house twenty-four feet under ground, and keep it in the ice-house.

WILLIAM WOLF sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. In the city of Washington, 719 Sixth street northwest.

Q. What is your business?—A. Food-inspector under the Board of Health.

Q. How long have you held that office?—A. Between five and six years.

Q. Has it been your duty to inspect the meat delivered by Mr. Hoover to the Freedmen's Hospital?—A. No, sir; it is my duty to inspect all meats in markets and in commission houses or wherever I find any meat, and so of vegetables or other food. I inspect it, and condemn such as is considered not fit for food.

Q. Have you in the discharge of that duty inspected the meat of Mr. Hoover?—A. I inspect the meat of Mr. Hoover every day, the same as I do all the rest of the butchers in market.

Q. Do you make a careful inspection of it?—A. I do.

Q. Are you an expert in that business?—A. I am.

Q. Are you a butcher by trade?—A. I am.

Q. What kind of meat does Mr. Hoover keep on hand?—A. Mr. Hoover keeps very good meat on hand. I always find his meat as good as that of all the rest of the butchers, in very good condition, fresh, and he keeps his corned beef always nice. I examine closely, especially in the summer-time, and I find it always in very good order.

Q. Do you inspect anything except fresh meats?—A. Yes, sir; I inspect all vegetables, food, chickens, poultry, and everything almost.

Q. Is it your duty to inspect salt meats?—A. Yes, sir.

Q. Do you inspect mackerel?—A. No, sir; I do not.

Q. Only meats and vegetables?—A. Only these.

Q. Has it been your duty to inspect the salt meat that he has delivered at the hospital? Have you had any opportunity to know about the quality of that?—A. I have examined Mr. Hoover's corned beef, as well as that of the rest of them in the market, every morning, especially in summer-time, and found it always in good order.

Q. Is Mr. Hoover a reputable tradesman?—A. Yes, sir; he does a large business in the market.

Q. And is he respected as such?—A. He is respected in that line.

RICHARD HARTNETT sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. Butcher.

Q. Have you ever been in the employ of Mr. Hoover?—A. Yes, sir.

Q. At what time?—A. Last summer.

Q. For how long?—A. I worked last summer with him up to the commencement of winter, about February, I think.

Q. Are you now in his employ?—A. No, sir.

Q. And have not been since the commencement of winter?—A. No, sir; but I kill for him sometimes; not regularly.

Q. Do you kill for others?—A. Yes, sir.

Q. And you sometimes now kill for him?—A. I do.

Q. Did you see the kind of meat that he sent last summer to the Freedmen's Hospital?—A. Yes, sir; I carried it there myself.

Q. Just describe it.—A. It was fresh beef, corned beef, mutton, shoulders, hams, and so forth.

Q. What was the quality?—A. Good quality.

Q. Was it fresh, untainted meat?—A. It was not tainted. I never carried any tainted meat there.

Q. Did you ever carry any heads?—A. I never carried anything like that.

Q. Or anything in the nature of offal of an animal?—A. Nothing in that line at all.

Q. Or uneatable stuff?—A. No, sir.

Q. You carried also salted beef, did you?—A. Yes, sir.

Q. Was that good beef?—A. Good, sound, salted beef.

Q. Do you know anything about the process of curing it that was used?—A. Yes, sir. The beef was taken and soaked to-day and put in brine, and to-morrow it would be corned beef fresh.

By Mr. EATON:

Q. One day only?—A. Sometimes one day and sometimes longer.

Q. How much longer?—A. A week sometimes; sometimes more than a week; sometimes if we have not got enough of it we buy some.

Q. Did any meat lie in the summer over a week in the brine?—A. No, sir; I do not think it would keep a week in summer-time, unless you kept it in the ice-house, and then it would be very doubtful. Corned beef is a very hard matter to keep in summer-time.

Q. You noticed that all the beef you took there was good quality, whether fresh beef or salted beef?—A. Yes, sir; both kinds were good quality of beef.

Q. Did you notice the salt pork?—A. I never noticed the pork; I used to carry it there.

Q. Do you know how that was taken, in barrels or in pieces?—A. I used to take it out there in pieces.

Q. You say you did not notice about it?—A. I never noticed. He used to see about that himself.

Q. Is Mr. Hoover a large dealer?—A. Yes, sir.

By Mr. SARGENT:

Q. While you were carrying meat to the hospital, did you have any arrangement or understanding with anybody by which you were to receive any percentage or advantage from it?—A. No, sir; I never had.

Q. You know of none at all?—A. No, sir.

Q. Did you ever hear Mr. Hoover speak of anything of the kind?—A. No, sir.

Q. Or Dr. Palmer, or Dr. Purvis, or any other man?—A. No man connected with that place.

Q. Or any other place?—A. No, sir.

Q. To what stall in the market are you now attached?—A. Eighty-two, I think.

Q. Who is the proprietor of that?—A. Charles A. Hoover.

Q. A brother of this Mr. Hoover?—A. Yes, sir.

SANTUS AUTH sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. Butcher.

Q. Where do you live?—A. On the Bladensburg turnpike.

Q. Are you connected with any stall in the market?—A. Yes, sir.

Q. What one?—A. No. 33.

Q. Are you carrying on business on your own account?—A. Yes, sir.

Q. Do you know about the quality of meat sold by William H. Hoover?—A. Yes, sir.

Q. What is the character of it?—A. All sound, good meat, as far as I know and as far as I have seen.

Q. Have you had occasion to examine it or notice it sometimes?—A. Yes, sir; he is right in the next stall to me.

Q. What is the reputation of Mr. Hoover as a dealer, an honest man?—A. As far as I know he is an honest man and keeps good meat.

Q. Do you know anything about the meats of last summer furnished by Mr. Hoover, particularly?—A. Yes, sir; he stood right alongside of me. It was all good and sound, every thing I saw, and all good meat, the best quality that could be got at the time.

Q. Do you know the occasions when the meat went from his stall to the hospital?—A. I have always seen it go from there early in the morning, and it is always good and sound; it always left the market good and sound.

Q. You knew the meats that were going to the hospital?—A. Yes, sir.

Q. What were they?—A. All the same as they sell in the market, good meat, quarters, and sometimes cut up into smaller pieces.

Q. Did it seem to be of the same character furnished to other customers?—A. Yes, sir.

Q. Have you bought hearts of Mr. Hoover?—A. Yes, sir.

Q. Do you buy the hearts now?—A. Yes, sir.

Q. Do you take all he has?—A. All he has.

Q. Did you ever see any hearts sent out to the hospital?—A. Not lately.

Q. When did you see any?—A. That has been some time since; a year or better. Once in a while I saw one, but not very often.

Q. Are the hams and other salt meat that go to the hospital bought of you?—A. Yes, sir.

Q. What quality of salt meat do you furnish?—A. The best that can be got in the market.

Q. Do you salt it yourself?—A. Yes, sir.

Q. Do you now refer to salt pork?—A. Yes, sir.

Q. What is your process?—A. I have an ice-house, and we cure it there in the summer-time. In the winter-time we do not need to put it in the ice-house. It is always cured well and sound.

Q. Just as good salt pork as you furnish to families?—A. Yes, sir.

Q. The same article?—A. The same kind.

Q. Out of the same pile?—A. Out of the same pile.

Q. Where do you get the hams that you salt?—A. I am killing the hogs, and curing them and smoking them myself.

Q. In furnishing hams to Mr. Hoover for the hospital, do you pick a poor article out of a lot and sell the rest to other customers?—A. No, sir; I just give them to him as I have them; the same as to any other customer.

Q. You count them out of the pile without discrimination?—A. Yes, sir.

Q. And have done that right straight along?—A. Yes, sir.

Q. A statement, then, that this salt pork is of poor quality, and that the hams are tough or too salt, cannot but be a mistake?—A. Yes, sir.

Q. That you know of your own knowledge?—A. I know it of my own knowledge.

Q. How long have you furnished Mr. Hoover with this salt meat?—A. Ever since last summer.

Q. What time last summer did you begin?—A. That I cannot say exactly; about the middle of the summer, I reckon.

Q. About July?—A. Yes, sir; perhaps before.

Q. Do you think it was before June?—A. It may have been before June, but how far before I cannot say.

Q. Have you any arrangement by which you receive any commission or percentage outside of the regular price for them?—A. No, sir.

Q. At what rate do you furnish hams?—A. I have been furnishing hams from eleven up to thirteen and fourteen cents.

Q. Is that as low as they can be sold in the market?—A. As low as they can be sold; the same as we get from any other wholesale trade.

Q. What do you sell the salt pork for?—A. For salt pork we get nine and ten cents.

Q. Is that as low as the wholesale trade will afford?—A. Yes, sir.

Q. Then you think the government is dealt honestly with by Mr. Hoover in these articles in price, in quality, and in quantity?—A. Yes, sir.

Q. Do you find that the quantity furnished at different times varies considerably, or does it run along about the same?—A. It runs about the same.

WILBERT CLARY sworn and examined.

By Mr. SARGENT:

Question. What is your business?—Answer. Fruit and produce dealer.

Q. Are you a wholesale or a retail dealer?—A. Wholesale.

Q. Where is your place of business?—A. 923 Louisiana avenue.

Q. How long have you been in the business here?—A. Fourteen years.

Q. Do you know Dr. Palmer?—A. Yes, sir.

Q. How long have you known him?—A. Perhaps twenty years; somewhere in that neighborhood.

Q. What has been the reputation Dr. Palmer has borne?—A. In Gardiner, Me., where I first knew him, it was A 1; I never heard a man say anything against him.

Q. What has it been since your knowledge?—A. No variation, no change.

Q. Do you furnish potatoes for the hospital?—A. I have sold potatoes to go to the hospital.

Q. At what time?—A. I think about all I furnished have been within

the last two or three years; not much before that time that I know of I do not remember before that time.

Q. What quality of potatoes do you furnish to the hospital?—A. I have always furnished the hospital with the best potatoes that I could get hold of, with one exception. Once I sent out a team with potatoes that were not up to the standard, and they were sent back to me.

Q. They were returned to you by Dr. Palmer?—A. Yes, sir; they were returned by Dr. Palmer.

Q. Are the potatoes that you furnished to the hospital, so far as size and quality are concerned, as good as those that you furnish your ordinary customers?—A. They are as good as are furnished my best customers; I do not say our ordinary customers, for we have a class of trade that takes nearly half the supply to hawk around through the streets. We receive double the consignments, I think, that are sold around in that way. Taking this into consideration, the potatoes sent to the hospital are a good deal ahead of these. The potatoes of the class he has got are of the very best, with that one exception. I sent out one load, and that load came from a cargo that I bought to arrive, and when it got here I objected to them on account of the size, and we finally compromised that at a reduction of 7½ cents a bushel, and I took the cargo. There were about 3,000 bushels of them, and Dr. Palmer was the only man who sent them back; he rejected them, so that his idea of potatoes and my idea was pretty nearly the same, only I took them at a reduction and he would not take them at all.

Q. Are the potatoes you send there of good size?—A. Yes, sir; with that one exception. Those were the only potatoes ever sent back.

Q. And those were not used in the hospital?—A. No, sir.

Q. What do you get for your potatoes?—A. They are running down some now. Potatoes are worth about 60 cents a bushel; good, fair quality of potatoes; that is, the wholesale bushel of 60 pounds. We have here a law for 56 pounds to the bushel, made by the territorial legislature we had a few years ago, and a good many are selling by that. He has always been very particular about the quantity. "Is this a 56-pound bushel or a 60-pound bushel?" And we have always insisted on the 60-pound bushel.

Q. The price at which you sell potatoes to the hospital varies with the price in the market, does it?—A. Yes, sir; that varies as the market goes up or down.

Q. Do you sell to Dr. Palmer for the hospital as low as you do to anybody else?—A. I have always had to sell low; in fact, my partner told me that a customer of that description was not of any account. I have had to sell to him as low as I sell to the lowest. In the first place, he is so particular on the quality. He wants the size, he wants the quality, and everything in that line. He asks questions as to the weight and everything else. Then I say, "I can get so and so." He says, "Well, I guess I can get them for so and so; if you can do better than that I will take the potatoes." That is the way of approaching.

Q. He beats you down and insists on measure and quality?—A. Yes, sir; he insists on the measure and quality and price. I never have oversold the market in any case to go to the hospital in my life.

Q. Have you any understanding or arrangement with him by which he is to receive any part of the price, or any percentage, or anything whatever?—A. No, sir; he never intimated to me either directly or indirectly that he ever would receive a cent benefit or I either.

Q. And no other person on his behalf?—A. No other person whatever.

Q. Did any one connected with the hospital ever do it?—A. No, sir; no one connected with the hospital or unconnected with the hospital.

Q. You are a wholesale dealer, and a friend of Dr. Palmer of long standing. Does the doctor ever consult you with reference to the prices of flour or other articles out of your line?—A. No; he did one time speak about some flour; that was some two years ago, I guess. I told him I was not a judge. He was speaking about flour advancing, or something of that kind; he did not ask my opinion any further particularly, but made a remark in a common kind of way; he asked for information, my idea was, and I merely made the remark that it was outside of my line and I could not tell very well. If it was something inside of my line, I could tell pretty well; as well as any one.

HENRY KAISER sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. Baker.

Q. Where do you do business?—A. No. 1338 Sixth street, corner of O street.

Q. Do you do considerable business?—A. Not a great deal.

Q. Do you bake for any body except the hospital?—A. A few private customers.

Q. State the arrangement between yourself and the hospital about baking.—A. The arrangement I made with Dr. Glennan about five years ago. I receive the flour, and I deliver a pound of bread for a pound of flour.

Q. Does that arrangement still continue?—A. Yes, sir.

Q. How much profit is there to you in that arrangement between a pound of flour and a pound of bread?—A. It comes to a little over two dollars on a barrel.

By Mr. ALLISON:

Q. Does that profit include the cost of baking?—A. I say two dollars a barrel is left.

By Mr. SARGENT:

Q. That is the compensation you get for baking the flour by the barrel?—A. Yes, sir.

Q. Do you deliver the bread to the hospital yourself?—A. No, sir.

Q. The hospital sends for it?—A. Yes, sir.

Q. Do you send to the hospital a pound of bread for every pound of flour you get?—A. Yes, sir.

Q. Do you weigh the bread?—A. O, yes, sir.

Q. Are your loaves of uniform size?—A. Pretty much the same.

Q. Is there any arrangement by which you need not send so many pounds of bread as there are pounds of flour, any private understanding?—A. No, sir.

Q. Is there any private understanding by which you are to get more than the difference between the pound of bread and the pound of flour?—A. Not at all.

Q. Is there any understanding by which you share with Dr. Palmer or any other person any profit from your operations?—A. No, sir.

Q. Do you bake up about the same amount of flour every month for the hospital? Does it run along about the same every month?—A. Not exactly. Sometimes they require fifteen loaves more a day, and of course it takes more then; sometimes less.

Q. What does that depend on; the number of patients?—A. I suppose so.

Q. You deliver as much as is ordered?—A. Yes, sir.

Q. Do they always keep you supplied with flour enough to bake, or do you sometimes run out of flour of theirs?—A. They always keep me supplied with it.

Q. How much flour do you have on hand at any one time?—A. I get about twelve barrels at a time; sometimes less.

Q. How often do you get it?—A. At present I get it twice a month.

Q. Do you ever receive more than twelve barrels at one time?—A. Not to my recollection.

Q. When do they give their orders for the amount of bread they want for a particular day?—A. Sometimes they give an order to bake more and sometimes less.

Q. When is the order given?—A. The driver gives me the order whenever they want more or less.

Q. Is it the night before?—A. In the morning when he comes; the day before he gets it.

Q. Is the bread baked for the hospital under that arrangement as cheaply as it could be under any other?—A. Yes, sir; I think it is rather cheaper than it could be baked in other ways.

Q. Do you think it is as cheap as the hospital could bake its own bread?—A. Yes, sir.

By Mr. ALLISON:

Q. From whom do you receive this flour generally?—A. From Mr Galt.

Q. Does Mr. Galt deliver it directly to you?—A. Yes, sir.

Q. Do you give a receipt for it?—A. Yes, sir.

Q. A written receipt?—A. He always sends a ticket and I sign my name to it.

Q. As to the number of barrels?—A. Yes, sir.

Q. When you deliver the bread to the driver for the hospital, do you do it on tickets, or do you take a receipt from him?—A. No, sir; he just gets the amount of bread they engage and that is all.

Q. You have no system of bookkeeping with him about the number of loaves?—A. No, sir; not with the driver. I keep a book for myself of what I deliver and what flour I get.

Q. You keep a memorandum of the number of loaves you deliver?—A. Yes, sir.

Q. How do you settle your accounts at the end of the month?—A. We have not settled for the last two years. The flour and bread always pretty much run up together, almost even.

Q. You make no settlement then?—A. We have not made any for about two years. It comes near. It is not much over and not much less.

Q. What is the character of this flour that you receive from Galt?—A. The flour is always very good.

Q. Do you make good bread out of it?—A. Yes, sir.

Q. Do you always use the identical flour to make this bread, or do you use other flour sometimes?—A. I always use the same flour I get from Mr. Galt.

Q. Are you a general baker in the city?—A. Yes, sir.

Q. You bake for other people besides the hospital?—A. Yes, sir.

By Mr. SARGENT:

Q. Dr. Palmer knows at the hospital how many pounds of flour you get? He orders the flour, does he not?—A. I suppose he orders it.

Q. You do not order the flour?—A. No, sir.

Q. You have nothing to do with ordering it?—A. No, sir.

Q. You simply receipt for it?—A. I only receipt for it.

Q. If the number of loaves you deliver corresponds with the number of pounds delivered to you, the account must be correct, must it not?—A. Yes, sir.

Q. And they know at the hospital how many pounds of bread they get?—A. I suppose they do.

Q. They vary the order, from day to day, as to the number of loaves they need?—A. Yes, sir.

Q. Sometimes a few more and sometimes a few less?—A. Yes, sir.

Q. That would show, would it not, that they know the number of loaves they get?—A. Yes, sir.

Q. What kind of settlement did you make two years ago? How did you make settlement; by counting up the number of loaves and the number of pounds of flour?—A. Yes, sir.

Q. Was there any difference in the settlement?—A. None at all.

Q. How long before that had a settlement taken place?—A. Before that I had baked three years. That was before Dr. Palmer came there.

Q. So every once in two or three years you count up your loaves?—A. I always wait for the doctors; they let me know when they want a settlement, and they have never asked for any since, so, of course, I keep my own books, and, I suppose, they keep theirs.

Q. And, when you come to compare, you find that you agree?—A. Yes, sir.

By Mr. ALLISON:

Q. You say the arrangement is that you give a pound of bread for a pound of flour?—A. Yes, sir.

Q. When was that arrangement first made with the hospital?—A. Just when I first commenced baking for it, five years ago.

Q. With whom did you make it?—A. With Dr. Glennan.

By Mr. EATON:

Q. Some complaint has been made that last summer on some occasions the bread was sour. Do you know anything about that?—A. That might be once in a while that the bread has not been very sweet on account of the weather. That will happen sometimes. I only once had complaint from the hospital. That is all I can recollect.

Q. Did you have complaint last summer?—A. Only once.

Q. As far as you know, then, there was but one time. Is that so?—A. I could not say it was only one time.

Q. But as far as you know?—A. Yes, sir.

By Mr. SARGENT:

Q. Who complained to you then?—A. Dr. Palmer. He wrote me a note that there had been complaint about the bread being a little sour, and he told me it would have to be remedied.

Q. Did you take care to remedy it?—A. Certainly.

THEODORE J. MAYER sworn and examined.

By Mr. SARGENT:

Question. Are you a member of any firm in this city?—Answer. Of the firm of W. M. Galt & Co.

Q. Where do you do business?—A. At the corner of First street and Indiana avenue.

Q. Do you do a large business?—A. Yes, sir.

Q. Wholesale?—A. Yes, sir.

Q. How long have you been established there, or in the city?—A. I shall have been a member of the firm three years next September, but I was clerk for the firm for about a year and a half before I became a member of the same.

Q. Is it an old-established firm?—A. Yes, sir.

By Mr. EATON:

Q. How long has the firm been established?—A. I suppose some thirteen or fifteen years; I cannot tell exactly.

By Mr. SARGENT:

Q. The firm does a large business?—A. Yes, sir.

Q. Do you furnish flour to the Freedmen's Hospital?—A. Yes, sir.

Q. How long have you furnished flour to it?—A. Since 1874.

Q. What kind of flour do you furnish?—A. We furnish to them high-grade family flours.

Q. To whom do you deliver the flour?—A. Mostly to the bakery of Henry Kaiser.

Q. Where is the rest delivered to?—A. Now and then they get a few barrels at the hospital for pastry purposes, I suppose.

Q. Do you furnish about the same amount of flour each month, or are there variations?—A. Sometimes it varies a little, according to the number of patients, I suppose, and then, again, sometimes they are out about the 27th or 28th of the month, and then they order, perhaps on the 27th or 28th, twelve barrels more, which is the usual complement, and of course that makes it for that month a larger delivery, and next month it is generally that much smaller.

Q. Suppose you take three months together. Will one period of three months average with another period of three months about?—A. I presume it would, unless they should have an unusually large number of patients at one time.

Q. Do you know anything about Dr. Palmer making a purchase of an extra amount of flour under the anticipation of its rising in price?—A. Yes, sir.

Q. When was that, and what was it?—A. It was last spring I think, when flour was low, and the tendency was that flour would advance, and it did advance. I told Dr. Palmer that flour was about as low as it was going to be, and that I thought it would advance. We thought it would be an advantage to the hospital to engage a month's supply in advance. It was the first of the month. I told him that it undoubtedly would advance. He said, "Well, we do not want that flour delivered all at once; we want it delivered the same as usual." I told him it would not make a particle of difference about the time of delivery; he could engage what they wanted during the month; he could count up what they had had during the last month and give me the order for the same number of barrels, and I would deliver it to suit him at the rates which then existed. I suppose the hospital was benefited about seventy-five cents or a dollar a barrel by his making the purchase.

Q. It made the apparent purchase for that month pretty large?—A. I think it was pretty large, because he bought, perhaps, a few barrels more than he actually needed for that month.

Q. Then the subsequent month was there less bought?—A. I think there was.

Q. Can you make up and furnish to the committee a statement of the

amount of flour delivered for every month during the last year up to the 1st of January?—A. From January to January?

Q. Yes, sir.—A. I will.

Q. And putting down the amount furnished each month and each delivery?—A. Yes, sir; I will have it prepared and furnished to the committee.

Q. What price do you get for the flour?—A. It varies with the market.

Q. Do you sell to the hospital as low as you do to any other customers buying at wholesale?—A. Just as low, and sometimes lower, because there seems to be a great deal of competition, everybody fighting to have the hospital as a customer, and consequently I have to cut very low.

Q. Do you know what means Dr. Palmer takes to get competition? Do you know whether he invites dealers to bid?—A. He invites dealers; he goes round to different houses and asks their prices, and whoever is the lowest man for the best quality of goods gets the order; and knowing that, I always cut low, so as to be enabled to get the order.

Q. And you know that the prices for which you sell are as low as or lower than the ordinary market prices?—A. Yes, sir.

Q. Is there any understanding or agreement on the part of Dr. Palmer by which more flour shall apparently be delivered than is actually delivered?—A. None whatever.

Q. Is there any understanding or agreement that he is to make any pecuniary profit out of that flour or his trading with you?—A. None whatever.

Q. And never has been?—A. Never has been.

Q. Has there been any such agreement or understanding with any person connected with the hospital?—A. None, to my knowledge.

Q. That you say on your oath and on your responsibility as a merchant?—A. I do.

JOHN A. HAMILTON sworn and examined.

By Mr. SARGENT:

Question. Of what firm are you a member?—Answer. Barbour & Hamilton.

Q. Where is your store?—A. On Louisiana avenue, between Sixth and Seventh streets.

Q. What goods do you deal in?—A. All kinds of groceries.

Q. Do you furnish goods to the Freedmen's Hospital?—A. We do.

Q. How do you get the trade?—A. Through Dr. Palmer.

Q. Why does Dr. Palmer give it to your firm?—A. That is more than I can say, unless it is that he can buy cheaper from us than from any one else.

Q. Does he inquire your prices before doing it?—A. He does.

Q. What is his course of dealing in that respect, as far as you know?—A. He comes around and inquires the prices, and, I suppose, goes to other places and inquires.

Q. Do you sell to him as low for the hospital as you do to anybody?—A. We do. We sell at wholesale prices.

Q. Do you ever make him any presents?—A. Never.

Q. Or furnish him goods to his own house cheaper because he buys of you?—A. I do not think I ever furnished five dollars of goods to him for his own house.

Q. You do not deal with him for his own house?—A. He has bought a ham or two, I think.

Q. And paid for them?—A. Paid for them.

Q. The market-price?—A. The market-price.

Q. Do you furnish the hominy for the hospital?—A. We have furnished part of it.

Q. During the past year?—A. Yes, sir.

Q. What quality of hominy do you furnish?—A. Good; with the exception of one barrel which was returned a few days ago. That was good, but the grain was too large he said; nothing was amiss with the hominy except that it was too large in the grain.

Q. Have you ever, either by accident or design, furnished any musty hominy for the establishment?—A. No, sir.

Q. You always furnish a good article?—A. A good article, always.

Q. What other articles have you furnished?—A. Sugar, coffee, tea, canned goods, rice, bacon occasionally.

Q. Is the bacon good?—A. No. 1.

Q. Just as good as you sell to anybody?—A. The same quality we sell to our best customers.

Q. What is the article of coffee?—A. Rio.

Q. Is that a good article of coffee?—A. Choice Rio.

Q. What article of tea do you furnish?—A. Green and black.

Q. The same kind of tea you sell to your good customers?—A. The same as to our regular trade.

Q. Do you sell to the hospital as low as you do to your most favored customers?—A. As low as we do to any of our wholesale trade.

Q. And furnish as good articles?—A. As good articles.

Q. Do you furnish mackerel to the hospital?—A. We have furnished a few. Not recently. Very few mackerel have we furnished.

Q. Did you furnish any last summer?—A. We may have done it, but I do not remember.

Q. Do you do all the trade with the hospital, or part of it?—A. Part of it.

Q. What was the quality of the article of mackerel that you did furnish?—A. Good quality.

Q. What was the number?—A. No. 3.

Q. Is No. 3 used in families?—A. Yes, sir. Of course it is not the largest and finest mackerel. It is a grade of mackerel that almost all hospitals around town use.

Q. Do not many good families prefer No. 3 in size?—A. They do. A good No. 3, of course, is not as fat as a No. 1, but is just as good mackerel.

By Mr. ALLISON:

Q. Are there not two kinds of No. 3 mackerel?—A. I believe there are half a dozen nowadays. They have a very small mackerel that they call No. 4 now.

Q. Are there half a dozen kinds of No. 3, or half a dozen kinds of numbers?—A. There are only No. 3 and No. 4 of the small-sized mackerel. The number threes are not all of the same size. This year's catch No. 3 has been very small—smaller than we usually have them.

By Mr. SARGENT:

Q. Is your mackerel inspected by anybody, or do you go by the inspectors' marks on the barrels?—A. It is inspected in Boston, when put up.

Q. Do you ever have any mackerel returned to you?—A. Yes, sir.

Q. Do you find the brands of mackerel reliable generally?—A. Not always. We often have to return them to Boston. Last year there were a great many poor mackerel in the market and we returned several hundred barrels to Boston.

CALVIN WITMER sworn and examined.

By Mr. SARGENT:

Question. Are you in business in this city?—Answer. Yes, sir.

Q. Where?—A. No. 1918 Pennsylvania avenue.

Q. In what business?—A. General grocery business.

Q. Do you deal with the Freedmen's Hospital?—A. Yes, sir; we have been selling them goods.

Q. During the last year or two?—A. For three years, I think.

Q. What goods do you furnish the hospital?—A. We have sold them mackerel, hominy, beans, sugar sometimes, and coffee, and salt.

Q. What kind of mackerel do you furnish them?—A. No. 3.

Q. Do you furnish them out of the same lots that you do other customers?—A. The same that we sell for family trade.

Q. Do families complain much of those mackerel that you sell?—A. We have never had any complaint at all of No. 3. Of course we sell a good many No. 1 mackerel. They are fat. Still a great many persons buy No. 3; they are smaller, and some persons prefer them. They are not so oily, and they broil nicely. There is a difference of about $10 a barrel in the price.

Q. The No. 3 are cheaper?—A. Ten dollars a barrel less.

Q. And families to whom you supply them consider them a good article? That is, they do not complain of them?—A. We have people who use them from one season to another, and we never have old or rusty ones.

Q. Do you ever use No. 3 yourself?—A. I frequently use No. 3.

Q. Of the same quality you furnish the hospital?—A. The same quality. We only keep one brand of No. 3.

Q. Do you find at your own table that these mackerel are good or bad?—A. They are good; they are not rusty.

Q. You say you furnish hominy?—A. Yes, sir.

Q. There has been a complaint that hominy furnished for the hospital during the last year was musty. Do you furnish musty hominy?—A. I never heard any complaint from the hospital. They never made any complaint to me. I sent them the same brand I have standing open in my store. We sell it to the best families in the first ward, southern hominy, some of it made in Alexandria, Va. It is the best. It is about the kind I send out.

Q. Are you a large dealer? Do you deal pretty extensively with families, &c., in the city?—A. Yes, sir; we have an extensive trade. We have been in business there about fifteen or sixteen years.

Q. Do you sell to the government for the Freedmen's Hospital as low as you do to other parties?—A. I think I trim the prices a little closer. We appreciate that trade, because it is cash every month, and there is no other trade in the city that is that way. It is cash the first of the month, and we appreciate that; and, of course, to retain it we offer inducements. Other trade, we sometimes have a promise of pay in thirty or sixty days, and sometimes we have to wait four months. Of course we appreciate the government trade, and to keep it we sell a little closer than we do to other parties.

Q. Aside from selling a little closer, at a little lower price, what other inducements do you offer to anybody to get that trade?—A. We never offered any other inducement.

Q. Did Dr. Palmer ever try to intimate to you in any way that you ought to make him some present or some return for trading with you?—A. Not the least insinuation of that kind.

Q. And nobody on his behalf?—A. Nothing of the kind, directly or indirectly.

Q. You never made him any present or promise?—A. Never made him any promise or present.

Q. And to no one else connected with the institution?—A. No one else connected with the institution.

Q. You deal with the government by furnishing articles as low as the market will allow, and deal honestly with it?—A. Yes, sir. All articles are weighed carefully, and I generally give supervision to those things myself to see that the weight and everything is correct, both in quality and quantity.

WILLIAM DIX sworn and examined.

By Mr. SARGENT:

Question. What is your business?—Answer. Butter-dealer.

Q. Where do you do business?—A. In the market exclusively.

Q. What is the number of your stall?—A. Three hundred and sixteen, Centre Market.

Q. Are you doing a large trade or a small one there?—A. I think I do a pretty good trade.

Q. What is the character of your customers?—A. First class.

Q. Do you sell butter to the Freedmen's Hospital?—A. I do.

Q. Any other article?—A. Butter and eggs.

Q. What is the quality of the butter you sell?—A. Good; such as I retail off my stand to private families.

Q. At what price do you sell butter to the hospital?—A. Twenty-five cents a pound.

Q. What do you sell that butter for at retail?—A. Thirty-five cents.

Q. What do you sell eggs for?—A. Eggs fluctuate in price. We retail them to-day at 18 cents a dozen; we sell them wholesale at 15 cents.

Q. Do you sell about the same amount of eggs in one week that you do in another to the hospital?—A. About the same; their orders are about the same.

By Mr. ALLISON:

Q. Do you deliver at the hospital or deliver at the stand?—A. I deliver at the hospital.

Q. Your own wagon carries them out?—A. Yes, sir; my own wagon.

By Mr. SARGENT:

Q. You sell the same quality of eggs to the hospital that you do to your other customers?—A. The same quality.

Q. And as low as they can be sold in the market?—A. Yes, sir. I am prepared to do it, and do do it.

Q. Have you any arrangement with any party by which more eggs are charged for than are delivered?—A. No, sir.

Q. Are all the eggs all delivered at the hospital?—A. Yes, sir.

Q. None delivered at the house of any officer of the institution?—A None, sir.

Q. Nor at any other place?—A. No, sir. The question I ask when my man comes back, is, if everything is all right, and if they are all delivered to the steward? The answer is they are all right in count and weight.

Q. There is no private arrangement between you and any officer of the institution?—A. No, sir; not the slightest.

WILLIAM DE MOTT sworn and examined.

By Mr. SARGENT:

Question. What is your business?—Answer. Our business is ostensibly clothing; but we deal in general merchandise.

Q. What is the name of your firm?—A. For the last two years William Wall. I have been interested there.

Q. Your place of business is 921 Pennsylvania avenue?—A. Yes, sir.

Q. Do you furnish any articles to the Freedmen's Hospital?—A. Yes, sir; we have done so.

Q. What have you furnished?—A. Articles of clothing, such as coats, blouses, stockings, and more or less cotton cloth, ticking, and goods of that character.

Q. Do you furnish the articles which you sell to the government as low as you do to any other parties?—A. Yes, sir. I will explain to you that we have had for several years past, until the present year, the contract for supplying the Washington Asylum or Almshouse, and, as everybody knows, we have to bid very low to get it, and I have always, in endeavoring to sell to Dr. Palmer, sold him at the contract-prices that we furnished the asylum, which are very low indeed. We buy the goods for cash; we buy them so close that we only get one per cent. off for net cash; and we furnish them to the hospital at a margin of at no time more than ten per cent., and very often at five per cent. above net cost. Dr. Palmer, I will say, buys from us lower than any government institution that we have ever sold goods to; and we have sold to almost all of them about the city.

Q. Does Dr. Palmer seem to be solicitous to get things at a low price?—A. Very; and it has been a question with us sometimes whether it was worth while to supply the hospital. It was simply a matter of cash transaction, or it would not have been profitable to sell to him.

By Mr. ALLISON:

Q. He pays you promptly?—A. We are paid promptly at the end of the month. The money is always forthcoming at the end of the month, and being a cash transaction, we were always ready to make the transaction.

By Mr. SARGENT:

Q. Does he inspect the goods that you deliver?—A. Yes, sir; always. I might say I have sold him a number of blankets, several hundred pairs of blankets. On the last we delivered him, I think, our profit was only 25 cents a pair, and they were the "silver-grey" blankets furnished us from H. B. Claflin & Co. and A. T. Stewart & Co.; and we have always had to examine the entire market in order to buy them low enough to be able to furnish them. Blankets went up on us last fall, and I had an agreement to furnish him one hundred pairs of blankets, and I think we did not make anything on the last fifty pairs. I have the bills of everything we have furnished him.

Q. Have you any arrangement or understanding with Dr. Palmer by which he is to receive any benefit personally from this trade?—A. In no way; not one dollar, or one cent.

Q. Or with any officer or person connected with the institution?—A. No, sir.

By Mr. ALLISON:

Q. Is there any discount on your bills?—A. No, sir. I should like to say—as I have made an affidavit that is on file somewhere, I suppose,

to the effect that a certain party, by the name of O. S. B. Wall, did at one time receive from a former member of our firm a consideration for what he claimed to be his influence in influencing the hospital trade—that I believe that was before Dr. Palmer was in charge of the hospital. The way that came about was this: when Mr. Robinson left our firm and the business of the firm came under my control exclusively, I had the management then of all the collection of the outstanding accounts and the settlement of all the indebtedness and the general management of the business. I found on the books of the firm of Wall, Robinson & Co., as it had been, a charge against O. S. B. Wall, and when I presented the account for settlement and insisted on a settlement of the account, and sued him before a justice of the peace for a settlement of the account, he then, and not till then, came forward and claimed that this matter of $40 was to be given him in consideration of his having influenced the trade of the hospital. That was the first Mr. Wall or myself knew of anything being paid, or any promise being made for any influence that might be used for soliciting trade.

Q. When was this?—A. This was about a year and a half ago that I pressed the claim.

Q. But what was the date of the account?—A. The account dates back somewhere in 1874, I think. I do not remember, but our books would show.

Q. That was before Dr. Palmer was there?—A. I think it was before Dr. Palmer was there.

Q. Who is O. S. B. Wall?—A. He is a colored man, a justice of the peace. That is all I know of him.

Q. Whom did he claim he had made this arrangement with?—A. With Mr. Robinson.

Q. But at the hospital? How did he exercise this influence?—A. He did not say what parties. He said for his influence with the hospital. He did not name any parties.

By Mr. SARGENT:

Q. Do you know whether O. S. B. Wall is the person whose name has been mentioned as one of those who have thought the affairs of the hospital were badly managed at present?—A. I presume it to be the same man.

Q. You have heard him discussed in that capacity?—A. Yes, sir; I have heard him discussed as being one of the parties who were making complaints, and it was accidentally that I mentioned this matter in my transactions with Dr. Palmer, and he requested me to make an affidavit to the fact, and I did so.

Q. Is that the affidavit that you made (handing him a paper)?—A. (Examining.) This is the one.

The affidavit is as follows:

DISTRICT OF COLUMBIA,
Washington County, ss:

On this 15th day of January, A. D. 1878, before me, the subscriber, a notary public in and for the District aforesaid, personally appeared William De Mott, who being duly sworn upon the Holy Evangely of Almighty God, did depose and say that on or about the 16th day of March, 1876, said deponent became the business agent of William Wall, of Washington City, and with the collection of outstanding accounts of the late firm of Wall & Robinson of said city, then recently dissolved; that, among others, there was one against O. S. B. Wall (colored) of $40, who, when sued on said account, presented a receipt given him by Robinson, of the late firm, which did not correspond with the cash account of the late firm, there being no such credit given the said Wall thereon; that said Wall informed this deponent that he had received the goods charged in said account from Robinson in consideration of his

(Wall's) influencing the trade of Freedmen's Hospital to the late firm of Wall & Robinson.

WILLIAM DE MOTT.

Subscribed and sworn before me.
[L. S.] JOHN T. C. CLARK,
Notary Public.

Q. The contents of that affidavit are true?—A. Yes, sir.

Q. With the exception of this affair of O. S. B. Wall, you know nothing of anybody ever claiming that he had anything for his influence for furnishing goods to the hospital?—A. In no way, and I am certain not with our house, because we never in any way offered or tendered to Dr. Palmer anything or he to us. He is so close in his dealings that he once went with me to Baltimore; I asked him to go, so that I might convince him that I was furnishing the goods as low as it was possible for them to be bought. I took him to Baltimore and introduced him to houses that we were dealing with, without their knowing anything about it, so that he might understand and know that he was getting the things at the very bottom prices.

Q. Have you stated what became of this claim of O. S. B. Wall? Was he allowed the credit or not?—A. He claimed it, and when it came to suit he was allowed credit for it.

Q. Did the justice before whom it was tried allow him credit for influence in procuring government trade to be given to you?—A. No, sir, he did not. I will tell you how it happened. He went before the justice of the peace and made this explanation. The justice sent for me, and I went there and he told me of it. I then explained the matter to Mr. Wall, and we decided that it would be better to close the account than to have any trouble about it, as it would necessitate Mr. Wall's subpœnaing the former member of the firm with whom he was then having some trouble, in fact a lawsuit; and sooner than subpœna him as a witness to testify in the case, we decided to lose the $10 and close the account.

By Mr. EATON:

Q. You carried it to profit and loss?—A. Yes, sir; we lost the account.

J. B. JOHNSON recalled.

By Mr. SARGENT:

Question. You are treasurer of the Howard University?—Answer. Yes, sir.

Q. Do you know anything about a piece of iron pipe that was used by Dr. Palmer at his residence?—A. Yes, sir.

Q. What is the history of that pipe?—A. It was a piece of old pipe that belonged to the university which he said he would like to have, and I gave him permission to take it.

Q. It did not belong to the government?—A. It did not belong to the government. It belonged to the university.

Q. Was there any discussion between you and him as to the price?—A. No, sir; it was an old pipe and was hardly salable. It could not be sold to first-class plumbers. He said he could use it and I told him to take it.

Q. A piece of old pipe, that belonged to the university, in your charge?—A. Yes, sir. This conversation occurred before he moved the pipe. He had my permission to take it before he took it.

By Mr. EATON:

Q. You never thought of asking him a quarter of a dollar for it, I suppose?—A. No, sir.

FRIDAY, *March* 1, 1878.

The subcommittee met at the room of the Committee on Appropriations.

Sister BEATRICE DUFFY sworn and examined.

By Mr. SARGENT:

Question. Are you connected with one of the hospitals in this city?—Answer. I have charge of Providence Hospital.

Q. How long have you had charge of it?—A. Eight years.

Q. Did you have as an inmate of that hospital, as a patient at one time, Franklin E. Felton?—A. Yes, sir.

Q. You know him pretty well, do you?—A. Yes, sir, I know him.

Q. What was Mr. Felton's conduct in Providence Hospital?—A. It was rather eccentric at times, but we considered him a person of unsound mind, and did not pay much regard to his behavior. With the sisters he was very agreeable; but with the patients he was exceedingly disagreeable while there.

Q. In what manner was he eccentric?—A. His whole conduct was eccentric. He made use of very profane language at times with the patients, and acted in a very disagreeable manner with them. We always considered him as of unsound mind, and did not pay any regard to his conduct.

Q. Did he make any complaint of the hospital?—A. No, sir; he seemed perfectly satisfied while he was there.

Q. Did you write him a letter inviting him to come back, after he left?—A. No, sir.

Q. Was any such letter sent on behalf of the institution?—A. No, sir. His brother wrote to me from Philadelphia, requesting me to receive him back if he should present himself there, as he supposed he would.

Q. On what ground did the brother ask you to receive him?—A. On the same conditions that he was there formerly. He was there as a pay patient. He was not there free.

Q. Who paid his expenses?—A. His brother, or rather his stepbrother, in Philadelphia.

Q. Did his brother freely furnish him with money?—A. He never gave him any money. He always sent it to me; he would not give him any money at all. He did not think him capable of making good use of it. He paid his expenses in the hospital. I have letters showing that he was perfectly willing to support him as long as he would remain in the hospital, but he would give him no money outside of the hospital.

Q. Did he state any reason for not giving him any money outside of the hospital?—A. He stated to me that he did not think he would make proper use of it. I supposed that he was inclined to be dissipated in his habits. That was the idea I formed of him.

Q. Have you those letters with you?—A. I have three; but I had another one. I lent it to Dr. Palmer one day and he did not return it to me. I had a great number of letters that I had received from his brother while he was in the hospital, that I did not keep. Those I have are letters I received after he left the hospital.

Dr. G. S. PALMER recalled.

By Mr. SARGENT:

Question. What became of the letter which was given to you by Sister Beatrice?—Answer. I gave it to the Secretary of the Interior, stating that it was a private letter. However, I have not been to him for it yet.

Sister BEATRICE DUFFY recalled:

By Mr. SARGENT:

Question. [After examining.] This letter of June 12, 1877, from his brother, which you have handed me, says:

I am sincerely glad that Mr. F. E. Felton's threatened lawsuit came to nothing; that he has ceased to annoy you.

That is directed to you. What was that "threatened lawsuit"?—Answer. He claimed an overcoat that he said he brought there. No person had any knowledge of the overcoat; and he sent some one over to tell me that if we did not return the value of it back, which he claimed to be about $23, he would enter suit.

Q. Did he begin a suit?—A. Yes, sir; he sued us.

Q. What became of the suit?—A. I put it in the hands of a lawyer and told him to settle it, and he settled it. I had to pay $10 for the trouble the lawyer took with him.

Q. As to the letter dated Philadelphia, January 2, 1878, which you have handed me, have you any objection to my reading it?—A. No, sir; you can read them all.

Q. It is:

To Sister Beatrice, Providence Hospital, Washington, D. C.:

RESPECTED MADAM: Mr. S. M. Felton is out of town. He much regrets to hear, I know, that his poor sick half-brother has ever caused you trouble after all the kindness with which you have treated him when under your charge. The New York Times yesterday had a long account of the commotion he has raised at the Freedmen's Hospital. We have every confidence that the honorable Secretary of the Interior will probe the matter fully, and do ample justice to all concerned. Awaiting his verdict,

I am, with great respect, your obedient servant,

E. F. BARKER.

Q. Who is Mr. Barker?—A. The brother-in-law of Mr. Felton. He acts as Mr. Felton's secretary in Philadelphia. The gentleman in Philadelphia is a very wealthy gentleman, and a very nice gentleman, I think. He has a brother also in California, a gentleman of ample means, and who would be very willing to take care of this man if he would only behave himself properly with the family. That is what they wrote to me after they found he was not with us.

The other letter, which the doctor did not return to me, is more explanatory about his affairs.

Q. The letter I have read speaks of the trouble he has caused you after your kindness to him. What particular trouble is referred to?—A. That was the lawsuit. When he threatened to sue us I immediately wrote to his brother in Philadelphia, and told him what Mr. Felton proposed doing, and to please let me know if he had an overcoat when he left home. It is the answer to that letter of mine that Dr. Palmer still retains, stating what articles he gave him.

Q. Was there any overcoat?—A. No, sir; we never found any. No person had any knowledge of one at all.

Q. How happened he to leave your hospital?—A. He thought he was well enough to go into business for himself, so he informed us, and wanted to go in business in the city as an agent for some insurance company.

Q. I understood him to state in his testimony that he left because he could not get at Providence Hospital the attention he needed of a male nurse.—A. That is false. He had a male nurse all the time that he was there. Of course we have male nurses in the male ward. He left the hospital and immediately wrote to his brother to send him money; that

he was so far recovered now he thought he was able to go into business for himself. His brother immediately wrote back to me and told me that he was very sorry to hear he had left the hospital, and that he had written to him for money, which he would not give him. He would never give him one cent outside the hospital, and he supposed he would come back to it, and, if so, to please receive him. He may possibly mean that I called that a letter of invitation to come back. When he wrote about suing me, I answered him and told him that I knew nothing about his overcoat, and that his brother had written me to the effect I have just stated. Perhaps he may have taken that as an invitation to come back. I merely told him what his brother had said, that he was willing to support him if he would return there.

Q. Did you receive any draft on San Francisco, on account of Felton, from any one?—A. No, sir. When he first came to Providence Hospital he presented himself as destitute; he had no money at all, but he told me he had ample means and could get it in a few days if we would trust him. I did not believe in that very much, but I took him in; he was very sick at the time—paralyzed. In a few days he gave me a draft on San Francisco on his brother. I left it in the Bank of Washington to have it collected. They sent it on, but it would not be acknowledged. Then I wrote to his brother in Philadelphia, as he told me he had a brother there, to see if there was any truth in his statements. The brother wrote me back that he was willing to support him and very glad to find he was there; that he was an unfortunate person who had given them trouble for the last twenty years, and that if we would keep him in the hospital, he would pay his expenses there as long as we kept him, and he did pay them very faithfully. You will perceive by one of these letters that he speaks of putting him in a private room. He became so troublesome in the ward and so annoying to the other patients that we could not keep him in the ward, and I wrote to his brother to ask him if he would authorize me to put him in a private room, as it would be a little additional expense. He wrote me back and told me yes—anything to satisfy him and keep him quiet.

Dr. P. GLENNAN recalled.

By Mr. SARGENT:

Question. Was Franklin E. Felton at any time a patient in your ward?—Answer. Yes, sir; he was when he first entered the Freedmen's Hospital.

Q. What ward was yours?—A. No. 1.

Q. Was he sent to any other ward?—A. He was sent to ward No. 2 in July, I think.

Q. For what reason?—A. There were a couple of patients in the ward that he had some difficulty with. There was a sick man that annoyed him, and he cursed about this man for disturbing him in the night. The man complained about it. The thing passed over. I did not say anything to him at that time about it. The man died in a short time. Some time afterward the same thing occurred with another patient. Felton cursed and damned and abused him for disturbing him by coughing; so I rebuked him very severely, and he asked to be removed. I moved him into ward 2.

Q. That was the occasion of the removal?—A. That was the cause of the removal. He asked to be removed. It was on account of those two occurrences. I talked to him pretty sharply for abusing those two patients.

COLLINS CRUSOR sworn and examined.

By Mr. SARGENT:

Question. Are you connected with the Freedmen's Hospital?—Answer. I am not.

Q. Have you ever been?—A. Never.

Q. What is your business?—A. I am an officer at the United States jail.

Q. Where do you live?—A. I live in Georgetown.

Q. Do you know Robert T. Johnson?—A. I do.

Q. How long have you known him?—A. I have known him for the last fifteen or twenty years.

By Mr. EATON:

Q. From his boyhood, I suppose, judging from his appearance?—A. Yes, sir.

By Mr. SARGENT:

Q. What do you know of Robert T. Johnson, as to his mode of life and character in the past?—A. I know at one time we had him in prison there, and I have known him since then. I have traced him through. I had lost sight of him for probably four or five years, but as I have known him generally, his reputation has been very bad in the community where he lived.

Q. What was he in jail for?—A. I cannot really think now. I did not think to look at the records. I did not know I was coming here for any purpose of this kind.

Q. Do you know whether he was at any time connected with the fire department?—A. I do.

Q. What position did he hold in the fire department?—A. I think he was a fireman there.

Q. Have you ever visited the Freedmen's Hospital?—A. I have.

Q. How often?—A. I think about half a dozen times, to the best of my knowledge.

Q. Have you been there since last July?—A. I have.

Q. Were you there on one occasion when the matter was under discussion between Felton and others whether the fish furnished to them was good or bad?—A. I was. I was there on private business with Dr. Purvis, and he asked me to walk through the wards with him, to see the condition of the hospital. I did so; and, as we neared the door, I think, of Dr. Purvis's ward, some one told him that there was a complaint lodged about the fish that they had that morning for breakfast; that it was tainted, bad fish. The doctor said nothing, but carried me through the different parts of the wards, and afterwards got me to go with him to the kitchen, and visit the kitchen. He asked the cook to give him some of the fish that was sent up for breakfast that morning. He brought out some of the fish, just pulled it up, and asked me to examine it. I did not know what for. I looked at the fish. The fish was perfectly sweet. After getting me through with the fish, he carried me to the barrel that the fish had come out of, and he got the cook there to hook the fish up, and the fish was perfectly sweet. I took one fish, tore it in two, and smelled it. It was perfectly sweet. I also examined the meat and bread, and every thing seemed to be in perfect condition—in good order. I could not find any fault whatever.

Q. Do you know Capt. O. S. B. Wall?—A. I do.

Q. Did you ever have a conversation with Capt. O. S. B. Wall with

reference to what he had against Dr. Purvis or Dr. Palmer?—A. We had several conversations.

Q. As to his intention to break up the hospital or the Colored Orphans' Home?—A. Yes, sir; I have had several talks with him about that matter.

Q. State when they were and what was said?—A. I cannot exactly state the date, for I paid no attention to the dates. I had no idea I would be called in question in relation to my talk with Wall.

Q. What did he say with reference to that matter?—A. Squire Wall seemed to be dissatisfied because they did not give him a certain portion of the patronage of that department to which he thought he was entitled, from the fact that he helped to get the first man out from there, Dr.—I forget his name—who was before Dr. Palmer.

Q. Reyburn?—A. That was the name. He said he helped to get Dr. Palmer there, and he thought he was entitled to patronage; but they had taken away the milk from him, and he was dissatisfied and intended to do what he could to put Dr. Palmer out.

Q. Did he say anything about Dr. Purvis in that connection?—A. I do not recollect his saying anything about Dr. Purvis. [A pause.] Yes, I think he said, too, that Dr. Purvis could do something for him, but would not.

Q. His complaint against these gentlemen was that they would not give him part of the patronage after he had assisted in getting one of them in the place or in getting Reyburn out?—A. That is what I understood from him.

WILLIAM H. WEST (colored) sworn and examined.

By Mr. SARGENT:

Question. What is your business?—Answer. I am a member of the Metropolitan police force of this district.

Q. Where do you reside?—A. 1025 Third street northwest.

Q. Do you know Robert Johnson, or Robert T. Johnson, who is now in the Freedmen's Hospital?—A. I do, very well.

Q. Did you ever have occasion to arrest him?—A. Yes, sir; I had occasion to raid his house as a disorderly house, a house of prostitution, of which he had appeared to have been the proprietor.

Q. Did you find him there?—A. Yes, sir; he made his escape that night. He was in the house when we raided it, but he made his escape by a door of which another officer was in charge, and we arrested him the following day.

Q. When was that?—A. That was on or about five years ago. I cannot remember the particular year, but it was on or about five years ago.

Q. (Handing a paper.) There is a reference in the Evening Star of this city of May 16, 1873, in the article which is marked. I hand it to you. Is that it?—A. (Examining.) This is the occasion.

Q. Read the item, and see if that describes the circumstance.—A. (Examining.) Yes, sir; that is the time. The house was situated immediately in the rear of Dr. Purvis's residence, in what was known as Green alley, between L street and Massachusetts avenue and 13th and 14th streets. The article is:

ALLEGED DISREPUTABLE HOUSE.—For some time past complaints have been made by many respectable residents in the northern portion of the city of the character of a house in an alley between 13th and 14th streets and L street and Massachusetts avenue, and last night Major Richards gave an order to Lieutenant Eckloff, of the sixth precinct, to make a raid on it, which that officer proceeded to do, and took into custody Alice Johnson and Robert Johnson (foreman of the hook and ladder company),

Emma Brooks, Maggie Lewis, Mary Johnson, Caroline Smith, and Thomas Sudden, all colored, and locked them up. This morning the case was continued, the two alleged principals, Robert and Alice Johnson, giving $300, and the others $100, each for a hearing to-morrow.

Q. You assisted in making that raid?—A. I did.

Q. And arrested those parties?—A. Yes, sir.

Q. Do you know what became of the case?—A. I think we failed to establish sufficient evidence to show that Johnson was proprietor, and I think after having given bonds, this woman, Alice Johnson, whom he was connected with there apparently, made her escape from Washington on her bond.

Q. Is Alice Johnson a young woman or old woman?—A. She is a young woman.

Q. A relative of Robert?—A. No relative. I think he was living with her as her friend, at this house.

CHARLES R. VERNON sworn and examined.

By Mr. SARGENT:

Question. What is your business?—Answer. I am lieutenant of the Metropolitan Police of this District.

Q. How long have you been?—A. I have been on the police force since the 11th day of September, 1861.

Q. Do you know Robert T. Johnson, a colored man in the Freedmen's Hospital?—A. I know Robert T. Johnson. I do not know where he is.

Q. Is he a colored man?—A. Yes, sir.

Q. Did you ever have any official duty in connection with him?—A. Yes, sir; on one occasion. There was a tobacco store on Seventh street near the corner of E street robbed. Some 8,000 or 10,000 cigars and some tobacco were stolen. We got information of the party who carried the stuff, and that he sold it to Robert Johnson. We went up to search his house and asked him for the stuff. He persistently denied knowing anything about the transaction; said he had not seen the cigars and knew nothing about the matter. We searched the house and failed to find them. I got information a little later in the night that the cigars were there. I went back and searched a second time with the same success—did not find them. The same party informed me later still that the cigars were there, and he located them pretty well. He had them hid in the yard in an old sideboard, I think. I went there and found the covers of the cigars. He was arrested for receiving stolen goods, knowing them to be stolen, carried before the police court, and sent to jail for the grand jury. This was on the 9th day of December, 1874.

PERRY H. CARSON (colored) sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. 113 Virginia avenue, southwest.

Q. What is your business?—A. I am in the marshal's office.

Q. How long have you been connected with the marshal's office?—A. One year.

Q. Do you know Robert T. Johnson?—A. I do.

Q. How long have you known him?—A. About six or seven years, perhaps longer.

Q. What do you know of his character for veracity and uprightness?—A. It is very bad.

Q. Do you speak of his general reputation?—A. Yes, sir.

Q. Have you had any official connection with him?—A. We have had business together in politics, and I have known him on several occasions at meetings, when he said he hoped he might be paralyzed if he would not do so and so. I do not think he is worthy of belief on his oath.

Q. You mean that he is a rough customer?—A. Yes, sir.

JAMES LEONARD (colored) sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. Fifty-eight C street, northwest.

Q. What is your occupation?—A. Driver of the prison-van for the marshal's office.

Q. Do you know Robert T. Johnson?—A. Yes, sir; five or six years.

Q. What do you know about him?—A. I do not know anything very bad about him, and nothing very good.

Q. Do you know what his business has been?—A. I know he was on the fire department awhile.

Q. Has he kept any place of business to your knowledge?—A. He kept a restaurant awhile.

Q. Do you know anything about his reputation for truth and veracity?—A. I do not know myself. I have heard it spoken of as not being very good.

Q. Have you had any occasion yourself to arrest him or assist in his arrest?—A. No, sir. I know when he was arrested.

RICHARD MARSHALL (colored) sworn and examined.

By Mr. SARGENT:

Question. Where do you live?—Answer. Eleventh street, between Q and R, No. 1631.

Q. What is your occupation?—A. I have kept a restaurant for the last seven or eight years, until the last three months, when I was burned out.

Q. Do you know Robert T. Johnson?—A. I do.

Q. What do you know about his character?—A. It is pretty bad. I have done business with him. He and I were together in business once. He got himself in trouble about some tobacco and cigars. My wife was home very low, expecting to die, and I went home to attend to her and in that time Johnson bought these cigars, and the officers came and searched for these cigars. Johnson said the cigars were not there. The cook told me the cigars were there, and the officer came to me and told me he was going to arrest me if I did not show up these cigars. I told him I knew nothing about them; I had not been there from Sunday evening. I went to Johnson and asked him about the cigars. He said yes, he had the old cigars, and he would be damned if he should have them. I said to him, "Then I shall not have anything to do with them, and if they ask me anything more about it, I shall tell them you have the cigars, and must let them have them." On that, I left.

Q. You need not go into these details. What is his general reputation for truth?—A. I would not believe him on no consideration at all.

By Mr. EATON:

Q. The question is not whether you would believe him, but what is his general reputation?—A. Very bad.

Q. Among people who speak of him and know him?—A. Very bad among everybody that knows him, pretty much.

JAMES A. MCDEVITT sworn and examined.

By Mr. SARGENT:

Question. What is your business?—Answer. I am a detective-officer of the Metropolitan police of this District.

Q. How long have you been?—A. About sixteen years, I judge.

Q. What is your present residence?—A. No. 509 Seventh street Southwest.

Q. Do you know a man by the name of Robert Johnson or Robert T. Johnson, a colored man?—A. Yes, sir.

Q. How long have you known him?—A. I have known him for many years.

Q. Have you ever had any duties in connection with your official position concerning him?—A. Yes, sir.

Q. What?—A. In reference to one occasion to a robbery of a cigar-store; the goods were found in his house.

Q. Was he arrested?—A. He was.

Q. Do you know of any other occasion?—A. I cannot say positively. I have not looked the records over. I intended to do so, but I was prevented by death in my family. I was notified of it about twelve o'clock, and I gave up this matter to attend to that, and I was also called as a witness in the District Commissioners' room.

Q. Do you know the general character of Johnson in this community?—A. Well, he is a man that kept a drinking-house where all classes of people used to go, and I judge a gambling-house also.

Q. What is his reputation for truth and uprightness?—A. I would not like to state it.

By Mr. EATON:

Q. What do you mean when you say you judge a gambling-house?—A. I have heard it stated.

Q. Was he ever arrested for gambling, or the house ever raided as a gambling-house?—A. I will not say positively whether it has been or not.

CHARLES A. ROBY sworn and examined.

By Mr. SARGENT:

Question. Are you connected with the Freedmen's Hospital?—Answer. Yes, sir.

Q. In what capacity?—A. In charge of the watch, and the carpenter's work, repairing generally.

Q. How long have you been there?—A. About eighteen months.

Q. Do you know Mr. Potter who has testified in this case?—A. Yes, sir; I know him.

Q. Has Mr. Potter ever given you any message to Dr. Palmer about the payment of money to stop this investigation?—A. Yes, sir.

Q. What was it, and when?—A It was at the first of the investigation they had there on the premises. Potter came out to me at the gate and said, "Those doctors are quite a set of blockheads." I asked him why he thought so. He says "For allowing this thing to go on." Says he, "If Dr. Palmer will send Mr. Riddle to Mr. Felton the thing can be stopped for $500." I remarked to him that probably Mr. Felton would not accept the offer, and he said, in so many words, that it was understood between him and Felton that he was to make that proposition to Dr. Palmer.

Q. That took place at the gate of the hospital?—A. At the gate of the hospital.

Q. What is the condition of Mr. Potter so far as health is concerned, or what has it been; has he been accustomed to go out?—A. He goes out upon all occassions, wet and dry. He is out every night until 8 o'clock. No weather, scarcely, stops him. His health appears to be very good.

Q. Do you know Mr. Calvert?—A. Yes, sir.

Q. What place does he hold there?—A. He is engineer at the hospital.

Q. Did Mr. Calvert make any statement as to the condition in which he would leave the hospital in case he left there?—A. He did on one occasion. He said if he was to leave, and knew he had to leave, he would put the engine in such condition that it would not be of much use.

Q. When was that?—A. That was, I think, during the investigation, a little before or after, I am not certain. I cannot recall the time. It was during the investigation.

Q. How happened he to speak of his being compelled to leave there?—A. I really do disremember the occurrence so far as his speaking of the trouble of leaving. It was some little trouble existed there. I do not know in regard to it.

Q. Have you been a patient at the hospital?—A. I was a patient there a while.

Q. For how long a time?—A. For three or four months.

Q. When?—A. Last year.

Q. Last summer?—A. No, sir; not last summer, last winter; this winter twelve months.

Q. What was your treatment at the hospital?—A. It was very good.

Q. What kind of food did you get?—A. The food was good enough, I thought. I never found any fault.

Q. In what condition were the wards kept, clean or otherwise?—A. The wards were kept in a very good condition indeed. I had an opportunity to know; they were kept as genteelly as they possibly could be. I do not know what else they could do unless they put carpet on the floors and frescoed the walls.

Q. That is the only thing you can think of to add to the cleanliness?—A. Yes, sir; from the way they constructed the building.

Q. You mean that everything was kept scrupulously clean?—A. Very clean and nice. They are constantly scrubbing and cleaning up the walls and so on. I have seen them at it three or four times a week.

Q. Do you have occasion to visit the wards now?—A. Yes, sir; I occasionally visit some of the wards.

Q. You go about them still?—A. I go about them; there is always something more or less to do about the wards.

Q. In the way of carpentering and so forth?—A. In the way of carpentering and seeing to one thing and another.

Q. Is the hospital kept in the same condition now as it was a year ago?—A. There is no difference between a year ago and the present time that I can see.

Q. During the visits you have made to the wards during the last two or three months, do you know or have you seen yourself or observed any efforts made to induce patients to testify one way or the other, with reference to this examination, by anybody?—A. Yes, sir; I have.

Q. By whom and under what circumstances?—A. Well, during the last investigation they had upon the premises.

Q. Do you mean the investigation held by the doctors from the Interior Department?—A. The doctors from the Interior Department.

During that I saw, I do not know exactly what you term it. Have you never been to a Southern country barbecue?

Mr. SARGENT. I never have.

The WITNESS. It was something equal to that. Felton would write down what he would want certain witnesses to swear to the night previous, and they would be examined the next day. He would school them at night. I know that. I have seen it.

Q. Instruct them in what they knew?—A. He would tell them what he would require them to swear to the next day. He would do it overnight.

Q. Would they make any objection, whether they knew it or not?—A. Some did and some did not. I know some that did make objection.

Q. Was the objection accepted as good?—A. The statements were modified and put through.

Q. Did you ever see Dr. Palmer or Dr. Purvis doing that?—A. No, sir; I did not. I never saw Dr. Purvis nor one of the doctors in that hospital do anything of the kind. In fact, during the last investigation out there everybody was afraid; it was a kind of a mob concern for thirty days. This man Felton would come down the street to where they held the investigation and would generally make a speech when he would get down to the ward, and he would have all the niggers in the place around him. They would show him to his ward and he would make a kind of stump speech that he had them, and all this kind of stuff.

Q. "That he had them," and what else?—A. That he had the doctors.

Q. You say that everybody seemed to be afraid. Afraid of what?—A. They had a kind of dangerous set there. There were two or three Irishmen, and several around there who were actually dangerous men. I was afraid of them myself. I had to take charge of the gate during the concern. I was alarmed some evenings myself when this thing would be over.

Q. On which side were these dangerous people?—A. They were all with Felton and in opposition to Dr. Palmer. The whole place was almost in a rush at the time.

Q. Meanwhile were the doctors doing their duty in the hospital?—A. They were.

Q. Attending to the patients?—A. Attending to the patients as regularly as they do now.

Q. Were things kept clean?—A. Kept just the same as they are now. The same thing continues.

Q. Did any witnesses tell you that anybody was induced to swear differently from what he knew?—A. O, yes, sir; several of them told told me that.

Q. Do you remember who told you that?—A. Two or three patients. They have gone. One was named Dorsey, and William Brown, a nurse there. There were several of them.

Q. What means, did Mr. Brown say, were taken to make him make an affidavit contrary to what he wished?—A. Felton led the colored folks there to believe the doctors would be dismissed or should be dismissed, and if they did not testify against them he would make the Secretary of the Interior dismiss them from the hospital.

By Mr. ALLISON:

Q. Do you say you are a watchman at the hospital now?—A. Yes, sir.

Q. On the day-watch or the night-watch?—A. The forepart of the night and the forepart of the morning, during breakfast and supper time, three or four hours at breakfast and three or four hours at night.

Q. What are your duties as watchman?—A. To see that everything is quiet and keep the gate, in order to see about people coming in.

Q. You spoke about Potter being out till eight o'clock at night. Do you keep a run of the patients who go out and in?—A. Yes, sir; we do not suffer sick patients to go out, but such men as Potter and those like him go out early in the evening, five or six o'clock, and return about eight.

Q. Do your rules require that they shall be all in at eight, or what is the hour?—A. They are all required to be in at nine.

By Mr. SARGENT:

Q. Your statement is that Potter is not a very sick man?—A. Not as far as I can see. He travels about and seems as well and healthy as anybody about there; he seems to have a great deal of business, always going in and out.

WILLIAM BROWN (colored) recalled.

By Mr. SARGENT:

Question. The committee are informed that you have a statement that you desire to make to us. You can make any statement that you see fit.—A. Well, the statement I want to make is concerning the commencement of the present affair. At the commencement there was a great deal of excitement around; they commenced talking to different ones, and before they had the investigation, before a man went and testified, the men talked with them, and they went before the committee when they met there.

Q. I do not understand you exactly.—A. I say that when they first commenced there a good many of them went before the committee and testified. Of course they had been talked to about going up and testifying.

Q. Talked to by whom?—A. Mr. Felton talked with them.

Q. Was that in your presence?—A. No; the men told me that they wanted me to go and testify; I told them that I did not care about coming here and testifying, because I did not know anything much about the law business, as I was there, and then I did not see anything wrong.

Q. Did you testify that there was anything wrong?—A. No, sir; I did not.

Q. They wanted you to testify against the management, and you said you did not know anything against it?—A. No; I did not know anything against the doctors.

Q. You did not testify against them?—A. I testified to what things I had seen, but then I did not see anything wrong.

By Mr. ALLISON:

Q. What do you mean by saying "they"? Who are they?—A. Testify that things were wrong in management around the hospital.

By Mr. SARGENT:

Q. Who spoke to you about it?—A. Mr. Felton was one. He told me he wanted me to testify before the committee. The investigation committee was up there.

Q. Did he leave it to you to state what things you had seen or did he tell you what you had seen?—A. Well, he had something written off about what went on there, and told me to speak these things because I had seen them.

Q. Had you seen them?—A. I have never seen half the things wrong that they said were contrary there.

Q. You had not seen the things that he stated in the paper?—A. No, sir.

Q. And you declined to do so?—A. Yes, sir.

Q. Was Mr. Felton satisfied with you declining?—A. Well, he must be satisfied, because I must go there before the committee. Everything that I thought was not right, I made objection to.

Q. Is there anything further you wanted to say?—A. No, sir.

Q. Did you yourself say anything to any one about Mr. Felton swearing at you?—A. Yes, sir.

Q. To whom did you say that?—A. I spoke to Mr. Roby, the watchman, and then I spoke to some one else about it.

Q. Did Mr. Felton swear at you to get you to make an affidavit, or for any other reason? What did he swear at you about?—A. All there that did not talk with them and consult with them they said were spies, and several times they were cursing and I spoke to them about cursing in the ward there.

Q. You made an affidavit, did you not, that Dr. Purvis induced you to make a former affidavit?—A. Dr. Purvis spoke to me one day, and said he wanted me to give in evidence because I was there and saw all these things. I did not like to do so, because I was uneasy and did not know what it would come to. I told him I would see about it, but he did not persuade me to make an affidavit.

Q. Any affidavit you made you made of your own free will?—A. Yes, sir. Mr. Felton spoke to me about making an affidavit, and I told him no, I did not want to make an affidavit. He said yes. But the affidavit the doctor spoke to me about he did not persuade me to make.

Q. Do I understand you that Felton swore at you because you would not say that Dr. Purvis persuaded you to do it?—A. He was always swearing. Sometimes when I was making up fires there in the building he would get to cursing anybody he would see going round about. He would curse them and abuse them, and it seemed as if he wanted everything very nice and correct around him. Any one who did not talk with them and talk the way they wanted him to talk, they would say he was a spy.

Q. Did you say to Mr. Roby that Felton made you say that Dr. Purvis induced you to make the affidavit which you did make, and swore at you to make you do it?—A. Mr. Felton told me that I must make an affidavit; I told him no, and he said yes, I must make an affidavit, because he was counsel for the case and I must make one.

Q. Did you do it?—A. Yes, sir, I did.

Q. Making you say "yes" where you had said "no"?—A. Yes, sir; but everything was upside down there. Everybody almost around the building was scared and did not know whether they would be discharged or not.

Q. Who were you afraid would discharge you?—A. I did not know whether they would go to headquarters and have us discharged. They were always writing letters.

Q. What do you mean by "headquarters;" the Interior Department?—A. Yes, sir.

Q. You say he was always writing there, and you were afraid he might get you discharged, and so you made the affidavit he wanted you to make?—A. Yes, sir.

Q. I think it is stated in that affidavit that Dr. Purvis made you make an untruthful affidavit; is that true?—A. No, sir; it is not. Dr. Purvis

did not make me. He only spoke to me about it twice, and I told him "no" one time, and he came to me and said he would like for me to make an affidavit, because I was there and had seen everything and knew about everything.

Q. Did Dr. Purvis or Dr. Palmer ever threaten you with discharge if you testified or did not testify?—A. No, sir; they never said a word to me about that. All the threatening was on the other side, from Mr. Felton and them—all the threatening which was made there.

Q. Whom do you mean by "them" besides Felton?—A. Him and Bob Johnson and Mr. Potter were pretty much going through the building; all three of them worked together.

Q. And they are the ones you mean by "them"?—A. Yes, sir.

Q. Do you know of those men threatening other persons there?—A. I do not know. I heard the other men say so.

Q. You did not see it yourself?—A. No, sir.

By Mr. EATON:

Q. Why did you not tell us this the other day when you testified at the hospital before this committee?—A. Well, I answered all the questions which you asked me the other day at the hospital.

Q. How came you to come now to do it? We are very glad to have you come and tell the whole truth; but why do you come?—A. Well, I came myself, and the reason I came was this: The other day, when you asked me to make a statement, I was a little excited, and I knew there was something left out, and I thought I would come here and make a statement.

Q. Whom did you say so to?—A. I said so to Mr. Roby; he and I were talking.

Q. The doctors did not know about it?—A. No; the doctors did not say anything about it.

Q. The doctors did not ask you to come?—A. No, sir.

Q. You have come of your own free will?—A. Yes, sir.

SATURDAY, *March* 2, 1878.

The subcommittee met at the room of the Committee on Appropriations.

ELIZA HEACOCK affirmed and examined.

By Mr. SARGENT:

Question. Where do you live?—Answer. I am matron of the home for Destitute Women and Children, colored.

Q. Have you ever visited the Freedmen's Hospital?—A. Yes.

Q. How often?—A. Frequently; I cannot say how often.

Q. For how long a time have you been in the habit of visiting it?—A. Ever since I have been in Washington as matron of this Home, since 1870; and before that, when I was here as a visitor occasionally.

Q. What can you say with reference to the condition of the Freedmen's Hospital for cleanliness during the last two or three years?—A. I have always found it clean.

Q. Did you visit the wards and go about in it?—A. Yes; the different wards I have gone through.

Q. Did there seem to be any uniformity in the cleanliness, or was it clean sometimes and not at others?—A. I have never found it dirty, but always clean.

Q. Did the beds seem to be in good order and the floors clean?—A. Yes, sir.

Q. Have you ever had occasion to examine the quality of the food of the hospital?—A. We had food supplied our home from there. It was always good.

Q. What was the food that was sent to your home? What were the articles?—A. Meat, bread, milk, sugar, pepper, cinnamon, ginger, crackers, cheese, and butter; I do not remember the other things that were sent.

Q. Was the Colored Orphans' Home at one time under the same roof with the Freedmen's Hospital?—A. No, we have never been under the same roof, but we first received support from the Freedman's Bureau, and then afterward a certain portion of our children received food from the hospital. We are about three or four squares from the hospital.

Q. How long have you been furnished food by the Freedmen's Hospital?—A. Ever since the bureau was started; a part of the year before from the War Department.

Q. Was the meat that you obtained from the hospital cooked or uncooked?—A. Uncooked.

Q. What were the articles: for instance, what kind of meat?—A. Sometimes mutton, at other times beef and pork.

Q. In what kind of pieces would you get meat?—A. Good pieces; sometimes pieces to roast; always certain pieces for stewing, but good meat, suitable for the children to eat and for the ladies.

Q. Did you ever get any fish?—A. Yes, sir; salt fish, codfish and mackerel.

Q. What was the character of the mackerel?—A. Always good, and the codfish was good.

Q. Would you get bread or flour?—A. Both; some flour and a certain number of loaves of bread every day.

Q. Was the bread sweet or sour?—A. Sweet; we never had any sour bread from the hospital.

Q. Are you still furnished with bread from the hospital?—A. No; it stopped the first of July.

Q. Did all the supplies cease at that time?—A. All the supplies ceased. The last year we only had bread and milk from the hospital.

Q. About how much bread would you get, per day, from the hospital?—A. Eighty loaves.

Q. And how much flour did you get?—A. We have not had flour for the last two years; before that I asked for a barrel when we needed it, I think once a month; I do not remember, exactly, how long it lasted us.

Q. You found all the articles of food that you received from the hospital good?—A. Yes, sir.

Dr. MARY A. PARSONS sworn and examined.

By Mr. SARGENT:

Question. What is your profession or business?—Answer. I am a physician.

Q. Where do you live?—A. I live in Washington.

Q. Have you ever had occasion to visit the Freedmen's Hospital during the last four years?—A. Yes, sir.

Q. Did you ever pass through the wards?—A. I used to be in the wards daily while I was a student at the college.

Q. How long ago was that?—A. I graduated in 1873, but I have visited there frequently since that time.

Q. What have you observed about the wards as to their cleanliness?—A. They have always been remarkably clean, considering the class of patients admitted.

Q. Do the beds seem to be in good order or bad order?—A. Always in good order.

Q. How was it so far as vermin were concerned, apparently?—A. The nurses seem to be very careful in regard to that. Of course there was more or less there.

Q. Do you consider that there were more there than unavoidable, considering the class of patients and the kind of buildings?—A. No, sir; they are not as noticeable as I have seen them in other institutions.

Q. What do you know about the food of the institution; have you ever had occasion to observe it?—A. Yes, sir.

Q. What did you observe about it?—A. It always seemed good in quality and fairly cooked.

Q. Have you noticed about the meats particularly, or the bread?—A. Yes, sir; I have seen the meats. I never tasted anything there until about two years ago, and since then I have eaten things there two or three times, and they were always very good.

Q. In your visits to the hospital, did you hear any complaints of patients that they did not receive food enough?—A. No, sir.

Q. Were you ever there at meal-times?—A. Yes, sir.

Q. Did they seem to have enough?—A. Yes, sir. I have heard complaints from patients about having too much food, and it not having been served well; but that was years ago.

Q. How long ago?—A. In 1872 and 1873; but it was only from discontented patients; it was not a general complaint.

Q. Have you observed about the treatment of the patients by the doctors, whether it was kind or attentive, or otherwise?—A. Uniformly kind.

By Mr. EATON:

Q. I should like to direct your attention to last summer. Complaints are made to us that last summer the treatment was not good, and the food was not good; and I wish simply to direct your attention to that time—say take June, July, and August, if you were there last summer?—A. I was not only in the wards at that time last summer, but I was also in the cook-room; that was the time to which I refer when I had eaten some of the food there.

Q. Does the testimony that you have given relate to these very months that I now speak of?—A. Yes, sir; the only time I ever had occasion to go into the cook-room at all.

Q. Be kind enough to tell me why you did then; was it because of complaints?—A. No, sir; a woman who is now assistant cook there had been for several years one of my patients, and I went there several times to see her, and went into the cook-room where she was at work.

Q. So that you had heard no complaint and did not go there for the purpose of examination?—A. No, sir.

Q. But did examine when there?—A. Yes, sir.

By Mr. SARGENT:

Q. And tasted the food?—A. Yes, sir; I tasted the food several times.

Dr. MARY D. SPACKMAN sworn and examined.

By Mr. SARGENT:

Question. What is your profession or business?—Answer. Physician.

Q. Are you in practice?—A. Yes, sir.

Q. Where do you reside?—A. 1634 Sixteenth street.

Q. Have you ever had occasion to visit the Freedmen's Hospital?—A. Frequently.

Q. For how long a time have you been in the habit of visiting it frequently?—A. Since 1870.

Q. Did you visit it last summer?—A. Yes, sir.

Q. Before that and since?—A. Yes, sir.

Q. What have you observed in reference to the cleanliness of the hospital?—A. I have always found it very clean and neat.

Q. Did you find it so last summer?—A. Yes, sir.

Q. What did you observe with regard to the food of the patients? Did you ever have occasion to examine it?—A. Yes, sir; I have always thought it good.

Q. Have you frequently examined it?—A. Yes, sir.

Q. Have you seen it served in the wards?—A. Yes, sir.

Q. And in the mess-room?—A. In the mess room lately; but I have seen it in the wards frequently.

Q. How lately in the mess-room?—A. Within a few days.

Q. Your testimony in reference to the wards, then, runs during the whole time?—A. Yes, sir.

Q. And as to the other, only recently?—A. Yes, sir.

Q. Have you noticed whether eggs were given to patients during your visits to the wards?—A. I do not remember particularly. I know that they have egg-nog and milk-punch when they need it. I do not remember particularly; but I think they have eggs; I am pretty sure that I have seen eggs.

Q. How was it formerly, or do you not remember?—A. The diet is the same. I do not know that I remember any particular change.

Q. You think the diet is the same now it always has been?—A. Yes, sir; I have noticed no change.

Q. Do you find any difference in the cleanliness of the hospital from what it was last June, July, and August?—A. None whatever.

Q. What have you observed with reference to the treatment of the patients by the doctors?—A. They have always been very kindly treated.

By Mr. EATON:

Q. Is your practice a general or a hospital practice?—A. General practice.

Q. May I ask you the occasion that took you to the hospital last summer. Confine yourself, if you please, to the months of June, July, and August. Why did you go there?—A. I am a graduate of that college, and I have always been deeply interested, and would go there frequently. I had no particular purpose in going last summer different from my going at any time. I go out very often.

Q. Had you heard complaints at that time?—A. None at all.

Q. So that your attention was not directed to the hospital because of any complaints?—A. No, sir.

Q. Did you as a physician see any cause for complaint? Did you see anything that would warrant complaint in your judgment?—A. Never.

Q. How often were you there probably. I suppose of course you cannot tell exactly.—A. I cannot remember. I would go out frequently.

Q. Take these summer months.—A. I can hardly tell. I would go out there often.

Q. During the months of June, July, and August?—A. At all times.

I do not remember those months particularly, for I have no particular reason for remembering them any more than other months.

Q. Did you know there had been an investigation heretofore, caused by the action of the Interior Department? Were you aware that there had been an investigation?—A. When do you mean?

Q. I mean what is called the last investigation, some months ago.—A. I knew there was an investigation.

Q. Did you know that during that investigation witnesses swore that they had been ill-treated and badly served during the last summer months of June, July, and August?—A. I have not heard those months specified.

Q. I directed your attention to them, supposing that in the day and time of it your mind might have gone back so that you could identify what the condition of the hospital was on those particular occasions.—A. I have never noticed any change.

Q. It is no more cleanly now than it was last summer?—A. No, sir; I am sure of it.

Rev. FELIX BARROTTI sworn and examined.

By Mr. SARGENT:

Question. What is your profession?—Answer. I am a Roman Catholic priest attending the colored people of the city of Washington, and the chaplain to the Home of the Little Sisters of the Poor, and the Children's Home in the northern part of the city.

Q. Where is your residence?—A. Eleven hundred and nineteen Fifteenth street.

Q. Have you visited the Freedmen's Hospital very often?—A. I have been attending the Freedmen's Hospital as a Catholic clergyman since 1857, the first of September.

Q. How often have you visited the hospital?—A. As a priest I have attended sometimes two or three times a week, and then again it would be a month before I was called. It all depended on circumstances. I only had charge of the Catholic portion, and of course whenever there was any one needing my service the doctors were always kind enough to send for me. So whenever they needed my services I was there, sometimes two or three times a week, and I generally went there every fifteen days.

Q. What can you say with reference to the general cleanliness of the hospital during the time you have known it?—A. Do you extend this time to the whole ten years, or do you divide it?

Q. Begin and tell it as you have seen it from time to time.—A. As far as the general cleanliness is concerned, I always saw it clean and regularly clean. Inasmuch as I knew the very days that the hospital was to be cleaned and scrubbed and all that, I would not go on those particular days. The only complaint about cleanliness, as I suppose I am to tell the whole truth—

Q. Certainly.—A. It was only that about nine years ago, or something like that, there was a little smoking in the rooms, which, especially in the winter, I thought disagreeable to the patients; but of late I have not perceived it. There was a smoking in the rooms, and of course, especially in the winter, the windows not being open, I thought it was disagreeable.

Q. Do you mean the smoking of the stoves?—A. No; the smoking of pipes by the patients.

Q. How long ago was that broken up?—A. I have not perceived it for two or three years past that I know of.

Q. Were you there last summer during June, July, August, and September?—A. I could scarcely say what times I was there, because I have no memorandum of it, but I have been there generally, either I or my assistant, regularly. There has not been a month that we did not go.

Q. Did you find the condition of the hospital during those months as you have now represented it?—A. I have always found it clean as far as I have seen it.

Q. You have been there during the last month or two?—A. Yes, sir.

Q. Do you find any difference in the condition of the hospital?—A. I find no difference, only that I find a different order at the door, that I was not admitted in on account of not being known by the person that was at the door; I was told that he had orders to let no one in unless he knew who he was. That was the only difference.

Q. You found some impediment in getting in, but you got in?—A. I got in.

Q. Otherwise you found it all the same?—A. All the same. I have been through it all.

Q. Do you encourage patients who are of your faith to talk freely with you about the hospital, and allow them to do so if they wish to make complaints?—A. Always. I have advised a good many to go there. I have advised others not. I have sometimes advised persons to go rather to that hospital than to others, for the reason that I always saw everything was proper there as far as I could see, and at the same time I had free access there. I could always go to attend to them, and I had no reason to believe that they would not be well received and have all the attention from the doctors they needed. I advised many to go to that hospital rather than to others on that account.

Q. Have those whom you have visited professionally complained to you of their treatment there?—A. I never heard one single complaint of that. The only complaint was that they did not get tobacco enough. That is the only complaint I have ever heard, that they could not smoke enough. These are those who are not sick, the old people who came from the old Freedmen's Bureau.

Q. What class of patients are they generally; are they poor, indigent persons?—A. As far as I have sent persons there, I have known them all to be really poor persons that had either to go to the poor-house or the Freedmen's Hospital.

Q. Have you ever noticed anything yourself about the food at the hospital?—A. I was there a great many times, especially in the morning, the time we go as Catholics to give communion to our people, and I have seen when they were taking their breakfast; of course they had to keep their breakfast from the people until I arrived there. I am not much of an expert in food, but I never knew of anything that was not proper or was not good, wholesome food. I never saw anything else. Then I have been there a good many times, especially in the evenings, in summer; generally I go in the afternoon in the summer time, and I never have seen anything that was not wholesome; but I was not there very often at those times.

Q. You were there during the summer time to which I have alluded. Did you notice that the food was the same as at other times?—A. I never noticed that the food was different. I cannot say about those months particularly, but I know that there was scarcely a month that I was not there, either myself or my assistant, and I never observed anything.

Q. As far as you have observed, it has been uniformly good from the present back?—A. Yes, at the times I was there.

WILLIAM SYPHAX (colored) sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. On P street northwest.

Q. Have you been a frequent visitor at the Freedmen's Hospital?—A. Yes, sir.

Q. For how long a time?—A. Several years. I suppose I have been a visitor to the Freedmen's Hospital for eight or nine years, off and on.

Q. What is the object of your visits there—in connection with the institution?—A. No, sir. I am a member of the Baptist Church, and a great many of the inmates there are our old members, especially from Arlington, which was my former home. There are several there, and have been there, who were my friends in my childhood, and being members of our church, I have thought it my duty to visit them.

Q. What has been your observation of the condition of the hospital as to cleanliness?—A. So far as I have seen, it has been perfectly clean and neat.

Q. Were you there last summer?—A. I do not think I was there in the summer. I was there last spring.

Q. What month?—A. I think it was April or May. There was an old woman that died shortly after whom I went to see, and I did not go again for some time. I was there in the fall. I do not think I was there in the summer.

Q. How did the condition of the hospital in the spring and in the fall agree?—A. It looked very neat and clean. I was in two of the wards, both upstairs and down. Once I went upstairs. They looked very neat and clean. I conversed with my friends very freely, sat by the bedside, and talked with them very freely; everything looked neat and genteel, as far as I could observe.

Q. Did they make any complaints of their treatment?—A. Not the least.

Q. Did you question them as to their treatment there?—A. I did. I felt it my duty, as they were friends, to explain to them their rights, and I also told them that I thought it was the wish of the friends of the institution who had created it that they should be protected, and I asked them how they fared and how they were treated, and in all cases they expressed themselves to me that they were treated very kindly; after they left there, once or twice I would meet them and ask them how they had been treated, and how they got along, whether they received kind words, and so forth, and they always, as far as they talked to me, expressed themselves perfectly satisfied.

Q. Did you ever see any of the food served up to them?—A. I was there once, at dinner-time, I think.

Q. When was that?—A. I think it was early last spring. It was when Mr. Anderson was there, the former janitor of our school. I went to visit him. I happened there when the meal was brought in. I did not notice particularly what it was, but it was handed around by the man, and I asked one of them, "Suppose you have not enough, can you get any more?" "Certainly we can," was his answer to me, and I felt it my duty as a friend to tell them that of course persons who were placed there by the government could not expect to fare as they would at the Arlington Hotel or at Wormley's, but still I told them what was their right, and they seemed to be perfectly satisfied. In fact, one old woman told me that she even had dessert, and I carried her some tobacco, because I knew she smoked and had been doing it for a number

of years, and she told me they furnished her tobacco there. It has been my habit generally to carry tobacco to those who smoked.

Q. Did you notice whether the wards were clean or not?—A. Yes, sir; so far as I saw, the two wards that I went into.

Q. Have you been there during the last three months?—A. Yes, sir; I think I was there week before last. I visited two old women there week before last.

Q. Did you notice whether or not the wards were cleaner two or three weeks ago than they were last spring?—A. No, sir; I did not see any difference. It so happened the last time I was there that I went both upstairs and down, because there was an old woman there from Arlington that I went to see who was upstairs. It was Friday before last I was there.

Q. What have you noticed, if anything, with regard to the treatment of patients by the doctors, aside from what the patients told you?—A. The only treatment I saw of the doctors was that of brother Anderson, the former janitor of our school. I went to the secretary and got him put in there. He asked me if I would come out and visit him. His leg was taken off. He made a request of the doctor that I should be sent up to accompany him over to the house where his leg was taken off. I stood by while the three doctors, two other doctors besides Dr. Palmer, whose names I do not know, took his leg off in my presence. After it was all over, they carried him over to his other bed where they had taken him from. I waited, I suppose, fifteen minutes until he came to, and he did not know anything about it. I made him recognize me. He did not know anything at all about it. In a few days afterward, I went to see him again.

By Mr. ALLISON:

Q. He missed his leg, I suppose?—A. Yes, sir; his leg was gone. I told him about it, and asked him if it hurt him, and he said he did not know anything about it.

By Mr. SARGENT:

Q. Did it seem to have been done skillfully?—A. I never seen a leg taken off before, and I was there simply at his request. They carried him over very carefully on a lounge, and, after they placed him upon the table, there were some eight or ten students around, and these three doctors performed the operation. One of them put something to his nose, and gave him, I think, a little whisky to drink. Shortly after that he fell asleep as if dead, and, I think, in about twenty minutes, I do not think it was much more, his leg was taken entirely off, and they sewed it up. He came a little to, but did not recognize me until I went over to the building with him.

Q. Is he alive now?—A. No, sir; he is dead.

Q. When did he die?—A. I think he died last spring. He got better; I went to see him several times and sat by him; other brothers went to see him and he got better, and finally came, to my surprise, to my house to see me. He came to me to ask me would I try to look out and get him something to do, that he was nearly well, and his leg was entirely well. I was so surprised to hear of the man walking from Howard University to my house that I could hardly believe it. I told him I would try; but it was pretty cold weather, and shortly after that he was taken sick with a cold, with pneumonia.

Q. He died of something beside his leg?—A. Yes, sir; he died of pneumonia.

GEORGE DOLLEY (colored) sworn and examined.

By Mr. SARGENT:

Q. Where do you reside?—A. 1339 K street northwest.

Q. Do you ever visit the Freedmen's Hospital?—A. Yes, sir.

Q. What takes you there?—A. I have an aged mother there.

Q. How long has she been there?—A. Since 1875.

Q. How often have you visited her there?—A. Every week from that time to the present, except six weeks; during which time I was away from Washington at the Centennial Exhibition.

Q. Would you go at the same time of day every week, or different times of day?—A. Different times of day.

Q. What have you seen about the condition of the hospital during the two years you have been going there every week?—A. I have visited but one ward, and I have always found that cleanly, in perfect condition, so far as sanitary rules go.

Q. How has your mother been treated there?—A. Very kindly, I presume. She always seems to be happy; much more so than I could have expected away from friends. She has kept a genteel appearance; looks comfortable; her bed is clean, and everything, as well as I can see, is nice.

Q. Is she there from age or from sickness?—A. From age.

Q. Do you know where she eats?—A. Yes, sir; in the ward.

Q. Does she ever complain to you of her food?—A. Never.

Q. Have you ever seen the food that was given to her?—A. Yes, sir.

Q. What was the character of it?—A. Nice, remarkably so; well cooked and very nice. I at one time tasted the soup to test the flavor of it, and it was very nice. They happened to have oyster soup that day, and I thought I would taste it and see the flavor.

Q. Did you ever see the meat given to her?—A. Yes, sir.

Q. Was it wholesome meat?—A. It appeared to be good.

Q. And the bread; how is that?—A. Bread very good; baker's bread.

Q. Did you ever notice the hominy?—A. I do not remember as to vegatables; I remember seeing tomatoes there once or twice; I have not been there very often during the meal hours.

Q. Did you visit her during last summer, during June, July, and August?—A. I did.

Q. Did she make any complaint to you then?—A. She never has made any complaint since she has been there.

Q. And you have been visiting her at the hospital ever since?—A. Yes, sir.

Q. Do you see any difference between the cleanliness of the hospital now and what it was last summer?—A. I cannot observe any change; it was as nice in the beginning as before. I visited the hospital the day before she was carried there in 1875, along with Dr. Johnston, now dead; and we found it in perfect condition then, and it has been, so far as I have seen, ever since.

Dr. R. S. WALSH (colored) sworn and examined.

By Mr. SARGENT.

Question. What is your business?—Answer. Practicing physician.

Q. Where do you reside?—A. 1008 Nineteenth street northwest.

Q. Were you formerly a student at the Howard University?—A. I was.

Q. You are not now and have not been for several years?—A. No, sir.

Q. Have you any connection with the hospital in any way?—A. As lecturer.

Q. You mean lecturer at the University?—A. Yes, sir.

Q. No connection with the hospital?—A. None at all.

Q. Do you draw any revenue from the hospital in any way?—A. None.

Q. Have you been accustomed to visit the hospital during the last three years?—A. I have.

Q. Just state what you have observed there with reference to cleanliness, food, and treatment of patients.—A. I entered the college in the latter part of 1870, and continued there until March, 1872. I visited frequently by virtue of having sent patients there. On my visits I always found the hospital in good condition. I never saw cause of complaint, nor heard complaint.

Q. To what period are you now referring?—A. 1870 to 1872 and subsequently.

Q. Go on.—A. I have never heard complaint from any of the patients, nor never observed anything that would lead me to suppose that the hospital was not conducted properly.

Q. Did you ever notice anything about the food of the patients?—A. I have frequently.

Q. Did you observe it last summer?—A. I did.

Q. During what months?—A. I cannot call to mind the months, but I visited it, as I stated, frequently to see the patients there; I cannot tell about what exact months.

Q. Did the patients complain of their treatment in any way?—A. Never to me.

Q. Did you give them an opportunity to do so if there was any trouble with their food, or anything else?—A. I have often asked questions in reference to their treatment, and their answers were generally uniform kindness and attention.

Q. You observed yourself that the wards were clean?—A. Yes, sir.

Q. Have you observed anything about the treatment by the doctors of the patients in the hospital?—A. Their treatment was kind and attentive.

Q. Have you visited the hospital within the last few weeks?—A. I have.

Q. Is there any difference in its cleanliness, or food, or in any other particular that you have noticed?—A. I cannot answer in regard to the food, but in regard to cleanliness there is no difference.

JAMES F. SHOBER (colored) sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. At present I am residing at the Freedmen's Hospital.

Q. What is your business there?—A. I work in the dispensary.

Q. How long have you been connected with the dispensary?—A. Since September last.

Q. Were you familiar with the hospital before that time?—A. Yes, sir; I have been connected with the hospital more or less since October, 1876.

Q. In what capacity were you connected with it before September last?—A. Before that I was janitor.

Q. What has been your observation of the treatment of patients at the hospital?—A. It has been very good.

Q. In what condition has the hospital been kept?—A. It has been very clean, as far as I have been able to observe, and I have had frequent opportunity to do that, because I have gone around frequently, being within the inclosure all the time.

Q. Did you ever notice the food that was given to patients?—A. Yes, sir.

Q. Did you notice it last summer?—A. I was not present last summer. I was absent from June until about the middle of September.

Q. You observed it before June?—A. Yes, sir.

Q. Was it of the same general character that it is at present, or was it different?—A. I have not seen any difference.

Q. Have you the same cooks?—A. Yes, sir; except that there is an assistant cook, Miss Powell, who was not there before that.

Q. What time did she come?—A. I do not remember; some time last fall.

Q. At the time you were there, before last summer, in going around about the wards, or the hospital, did the patients ever complain to you in any instance?—A. No, sir; from last March, I think, about the latter part of March up to the time I went away in the summer, I went around with Dr. Purvis, did his writing, and I did not hear any complaint the whole time I was with him.

Q. No complaint was made either to you or to him?—A. No, sir; I heard none made to him. I have often heard the patients ask him for extra diet, and I have for the first time to know of his refusal.

Q. He would always comply?—A. Yes, sir; he always complied; changed it or gave whatever was wanted.

Q. What was his manner with the patients, kind or harsh?—A. Very cheerful. He tried to make everything as pleasant as possible for them.

S. F. STAGG recalled.

By Mr. SARGENT:

Question. Where do you reside?—Answer. I am stopping at the Freedmen's Hospital.

Q. Are you connected with it in any way?—A. I am a resident student of the medical college branch of the Howard University.

Q. Have you any connection with the Freedmen's Hospital?—A. I go around every day with the physician, Dr. Purvis.

Q. You simply go around the hospital in pursuit of knowledge in your proposed profession?—A. Yes, sir.

Q. Do you draw any revenue at all from the hospital?—A. No, sir.

Q. How long have you been accustomed to go about the hospital?—A. About two months.

Q. Had you visited it before that time?—A. I used to do so occasionally last winter a year ago.

Q. What have you observed during the last two months in reference to the hospital?—A. As far as cleanliness is concerned, it was always clean.

Q. What have you observed about the food?—A. All I have noticed was good.

Q. Were any complaints made to the doctor in your presence?—A I never have heard any.

Q. How was it last winter?—A. As regards cleanliness, I do not see any difference.

Q. In any other respect?—A. I do not perceive any change.

Q. The hospital is now conducted in the same manner it was then? A. Yes, sir; as far as I know.

Q. Is the hospital kept clean and decent?—A. Yes, sir.

Q What is the character of the patients that are brought there?—A. They are generally a poor class.

Dr. DORSEY N. MCPHERSON sworn and examined.

By Mr. SARGENT:

Question. What is your business or profession?—Answer. I am a practicing physician.

Q. Where do you reside?—A. Corner of Second and A streets, southeast.

Q. Do you ever have occasion to visit the Freedmen's Hospital?—A. Yes, sir; I was a resident student there in the spring and fall of 1876.

Q. Have you visited the hospital since?—A. I have.

Q. How often?—A. About once a week since September.

Q. What have you found as to the condition of the hospital since September, so far as cleanliness is concerned?—A. Always clean; no difference.

Q. What have you observed since September with regard to the food of the patients; have you ever seen it?—A. But once or twice. I could see no difference whatever.

Q. How does the present condition of the hospital, or the condition it has been in since last September, compare with what it was when you were a resident student at the university?—A. I can see no difference whatever.

Q. At the former time was it kept in decent order and cleanliness?—A. Yes, sir.

Q. That you noticed, did you?—A. Yes, sir.

Dr. ROBERT REYBURN sworn and examined.

By Mr. SARGENT:

Question. What is your profession?—Answer. Physician.

Q. Where do you reside?—A. 2129 F street.

Q. Were you at any time in charge of the Freedmen's Hospital?—A. Yes, sir; I built it.

Q. Between what years?—A. From its organization and building in 1866 until March, 1875.

Q. By whom were you succeeded?—A. By Dr. Palmer.

Q. Did you obtain meat from Mr. Hoover?—A. I did.

Q. The one that now furnishes the hospital?—A. I suppose the same man.

Q. What was the character of the meat Mr. Hoover used to furnish the hospital?—A. Very good. I always considered him a very fair and honorable man, and do so still.

Q. What kind of pieces of meat did he furnish?—A. We got whole quarters. We used large quantities, and would get the whole quarter at one time—several of them, in fact.

Q. Do you know the present nurses at the hospital? Do you know who they are?—A. Yes, sir; almost all of them.

Q. Are they the same nurses that you kept?—A. I know a great many are; but I have never been in the institution since I left, and of course I only know that from hearsay; but I know a great many of them are there—a majority of them—I think almost all of them.

Q. Were they accustomed, in your time, to keep the wards clean?—A. Yes, sir.

Q. Were they faithful nurses?—A. Yes, sir.

Q. Do you know whether the cooks who are there now were those under you?—A. I cannot say of my own knowledge.

Q. It has been testified here that the cooks are the same, except one that came last June. Were those cooks that you had skillful, careful cooks; did they cook food well or otherwise?—A. Yes; they of course were rough cooks. We never pretended in an institution of that kind to make such a table as you would at a hotel; but the food was well cooked, and we endeavored to have it always inspected every day by each medical officer in turn.

Q. The cooks were competent to roast or boil beef or cook hominy properly?—A. Yes, sir; certainly.

Q. Considering the kind of patients you had, the kind of diseases they had, &c, did you ever have difficulty about having your water-closets kept clean?—A. Yes, sir; a great deal. You must remember that many of the patients who came in were entirely ignorant of sanitary rules; and that was one of our great troubles and difficulties with them: we had a great deal of difficulty in that way.

Q. With all your vigilance and care, bad consequences could not be prevented in that respect?—A. Not always. We made daily inspections; but still it was very difficult. Allow me to make one statement which will explain perhaps the reason why supplies were furnished to the orphan asylum. It is a matter of Congressional enactment. The asylum matron, Miss Heacock, did not state that.

Q. You can state it.—A. The reason supplies were always furnished by the Freedmen's Hospital to the orphan asylum was that by Congressional enactment that was made part of the institution. Although a separate institution, you will find by the language of the appropriation it read for some years, "Freedmen's Hospital and Asylum," especially to include the supplies furnished that orphan asylum.

Q. What supplies were you accustomed to furnish the asylum?—A. Bread, meat, crackers, cheese, butter; in fact, we generally furnished to the amount of their proportion. We gave them their quota of the appropriation, and they drew the articles they wished out of that. We gave them a little latitude. We furnished milk, also, and staple articles.

Q. Who were the inmates of that asylum that you used to furnish these articles for?—A. Orphan children and some old women. There were seventy children, I think, at the time I was in charge.

Q. Why were they not kept under the same roof as the hospital?—A. In the first place, this institution was a separate organization, and was acting under a charter given by Congress, and when the hospital was built there was not room for them. I might explain the way the hospital came to be built. When the Freedman's Bureau was closed there was a number of patients left in charge of the government, and it was necessary to provide a place for them. Some had to be brought from Richmond. The authorities of Richmond refused to take charge of them, and they had either to be turned into the street or brought here. Some, also, from Nashville, were brought here. There was not room at that time to take in this class.

Q. Did you have under your charge in the hospital idiots and persons suffering from mild dementia?—A. Yes, sir; a number of them came from Richmond. We had to take them; we could not turn them into the street.

Q. Was there any other institution to which they could be sent?—A.

No, sir. I would explain that when the Freedman's Bureau closed there were a number of hospitals under it in the Southern States. I was at that time chief medical officer of the bureau. We succeeded in turning over a great many of these hospitals to the States and State institutions. They took them with the furniture and all the appliances, to take care of the patients. But in some States we could not do that. The case at Richmond was a case in point. They refused absolutely to take charge of the patients, and we had to bring them here, and among them were a number of these imbecile and idiotic persons. If a man became dangerous we would try to send him over to Saint Elizabeth if we could not keep him with the other persons.

Q. That is the insane asylum?—A. Yes, sir.

Q. That was a legacy left on our hands by the war?—A. Yes, sir.

Q. The breaking up of the contraband camps?—A. Yes, sir; I was on duty in the bureau from the organization to the ending.

ALBERT G. WALL (colored) sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. I am residing on G. S. Kimball's farm, across the navy-yard bridge. I do not know just exactly how to locate it, as I have been there but a very few days at present. I moved there a few days ago.

Q. Where did you live before that?—A. On the corner of Fourth street and Pomeroy street. Some call it Four and a half street, and others Fourth street.

Q. Is that beyond the boundary?—A. Beyond the boundary, near the Freedmen's Hospital.

Q. What is your business?—A. I am a dairyman at present.

Q. Do you furnish milk for the Freedmen's Hospital?—A. Yes, sir.

Q. How long have you done that?—A. I have been furnishing milk for about a year and upwards; in the neighborhood of a year.

Q. What do you get for your milk?—A. I am getting during the winter season thirty-five cents per gallon, and in the summer thirty cents; that was what I got last summer.

Q. Is that a low price for milk, or a fair price?—A. That is a pretty fair price for good milk. It would be a pretty stiff price for bad milk. For good milk I would claim that it is a fair, reasonable price. A man can make a living at it.

Q. Is that the price you furnish it to other customers?—A. I have some private customers I furnish at forty cents a gallon or five cents a pint, ten cents a quart. Some I am furnishing at thirty-five cents a gallon.

Q. That is as low as you furnish it to any of your customers?—A. Yes, sir; as low as I furnish any.

By Mr. ALLISON:

Q. Do you furnish them all the same milk?—A. Yes, sir.

By Mr. SARGENT:

Q. Do you know anything about the condition of the hospital during the past two years. Have you ever gone through it much?—A. I have visited the hospital daily for the last two years.

Q. What parts of it?—A. In fact all parts of it, all the wards. I have frequented all the wards with the physicians at different times, and I have always found the wards in a cleanly condition; have always found the food very cleanly and cooked in a palatable manner.

Q. Have you seen any improvement in that respect during the last two or three months?—A. I have not.

Q. Were you visiting the hospital last summer?—A. I was, daily.

Q. Did you find the condition of the hospital which you have described applicable then?—A. Yes, sir; just the same as it is at present.

Q. Were the patients complaining in your presence?—A. I never heard any complaint at all until since Mr. Felton has been there, and Mr. Johnson.

Q. Have you noticed Felton and Johnson there?—A. I have. I have had occasion to notice them, because I was there at one time as watchman of the Freedmen's Hospital.

Q. Do you know O. S. B. Wall?—A. I have known him for thirty-four years now.

Q. Is he a relative of yours?—A. He is said to be a brother.

Q. Do you know Dr. Augusta?—A. I know him; I am personally acquainted with Dr. Augusta.

Q. Do you know Calvert, the engineer?—A. Yes, sir; I know him.

Q. Do you know Mr. Potter, a patient there?—A. O, yes; I am acquainted with him.

Q. Do you know Chase?—A. Yes, sir.

Q. And Adams?—A. I do not think I know Adams; I may possibly know him, but I cannot recall him.

Q. What do you know, if anything, of any arrangement or consultation among those men for an assault against the Freedmen's Hospital?—A. Well, sir, I know that by Mr. Potter, Mr. Calvert, Mr. Johnson, and Mr. Felton, there was, from time to time, a caucus held in the room of one of the nurses, Mr. Brown, frequently; you might say every other night in the week.

By Mr. EATON:

Q. Do you know this personally of your own knowledge?—A. I know this personally. I know they have often held caucuses there at such a late hour and kept so much noise—such loud, boisterous noise—by Mr. Felton speaking to his mob; and they caused so much noise on one or two occasions that I had to go and stop it. I had to tell him it was against the rules of the institution. On one occasion I could not get it stopped except by turning the lights down. I turned down the lights, and left him in a dark room, which I was reprimanded for.

By Mr. SARGENT:

Q. By whom were you reprimanded?—A. Dr. Palmer spoke to me about it. Dr. Palmer said I ought to have spoken to the nurse, and that would have been sufficient; that it was hardly my place to turn out the light; the nurse should have done that.

By Mr. ALLISON:

Q. Did that turning down of the lights have the desired effect?—A. It did. I told him he must stop, he must abate the nuisance, he must stop making the noise. He was speaking in a very loud boisterous manner, and his comrades were enjoying it by hearty laughs, making considerable noise that caused the patients to be aroused and kept them restless until about eleven o'clock.

By Mr. SARGENT:

Q. What was the object of that meeting? Could you hear what was said?—A. It was stated that Mr. Palmer, and Mr. Purvis, and in fact *all* surgeons who were in charge of the Freedmen's Hospital, should be

dismissed, and in the course of a little while they were getting the thing in a fair way to dispose of them, &c., and general conversation pertaining to the matter that they had on hand about that.

Q. When did you commence to furnish milk to the hospital?—A. I think, if I mistake not, it was about the beginning of 1867. I do not know just the month, but I did not furnish all the milk of the hospital at that time. I only furnished a couple of gallons.

Q. Who furnished the rest?—A. Capt. O. S. B. Wall, I believe.

Q. Do you know whether O. S. B. Wall had anything to do with this movement?—A. Well, sir, I know that they held meetings or were coucusing in O. S. B. Wall's office. I saw present there Mr. Calvert, Mr. Chase, and Mr. Potter, from time to time.

Q. Was Dr. Augusta ever there?—A. Yes, sir; and Dr. Augusta. I saw him there quite often.

Q. Did either of the persons who met at Captain Wall's office endeavor to induce you to join in the effort to remove Dr. Palmer?—A. Yes, sir.

Q. Who was it?—A. Well, Capt. O. S. B. Wall, on two or three occasions, spoke to me about the matter.

Q. What inducement did he hold out to you?—A. He said it would be wise for me to keep my mouth shut in this matter; not to have anything to do with it; that Dr. Palmer was not paying prices to me for my milk, and that he would not do it. White men had always been furnishing milk there and being paid for it, but the moment a colored man got it he cut the price of milk down, he said; and that if I would have nothing to do with the matter at all, and say nothing on either side, if he should accomplish his purpose, which he was positive of doing, if he would put a man in that hospital whom he could control, I need not be afraid at all, that I would not be removed from my present place of furnishing milk to the Freedmen's Hospital. Instead of taking from me there would be added to me. I suppose he meant by that I would have more patronage from the institution; and a great many things I cannot just think of at present.

Q. Did you have any conversation with Robert T. Johnson about this matter?—A. Yes, sir; I had conversations with Robert Johnson about it.

Q. Did Johnson ever tell you anything about this matter, so far as it related to Purvis?—A. Yes, sir.

Q. What did he say about that?—A. In what particular do you mean?

Q. Whether the investigation was *bona fide* or not, whether there was anything against Purvis or anybody else.—A. He intimated, in fact he said to me, that it was a got-up thing. I would like to speak it just as he spoke it to me.

Q. Exactly.—A. Says he, "Al, there isn't a nurse in this room," in other words "a nigger in this room that I can't influence in five minutes and make them turn and go just any way that I say;" and he said something to me concerning Secretary Schurz in the matter.

Q. What was it? Give the whole of it.—A. He said that Secretary Schurz had promised him that he should be supported in this thing, and for him to go ahead, and that anything he wanted in that institution let him know and he should have it; if there was any man there that was about to be turned out, if he did not want him turned out, to send word to him and he should not be turned out; and if any man was turned out and he wanted him reinstated he would reinstate him for him, and that he held daily correspondence with Secretary Schurz from day to day.

By Mr. ALLISON:

Q. This is what Johnson said?—A. Yes, sir; Robert T. Johnson.

By Mr. SARGENT:

Q. In that connection did he say that this was a put-up job?—A. I do not know that it was just at that time, but I had a great many talks with Johnson about this matter, because I felt that it was a put-up thing myself; in fact I knew it was, because there was no ground to do anything without it was a put-up thing; I knew that.

Q. Was Johnson trying to persuade you to join him, or you trying to persuade Johnson to drop it?—A. I was not trying to persuade him to drop it, but I was thinking he was going wrong, and I did not want to see him doing wrong. I did not want to see these charges brought up against men, and stain the character and reputation of men that had been working for their reputation so long as Dr. Palmer, Dr. Purvis, and others had; and to have their character stained and blotted by a miserable outcast like Robert T. Johnson I thought was ridiculous. I thought it behooved me as a man, and would behoove everybody else, to take hold of the matter, and I felt an interest in the matter, and I talked to him about it. I did it for the purpose of getting at the bottom of it. I wanted to get at the foundation to see if I could possibly find why it was that this thing was brought out. He intimated to me on one occasion that he needed money very bad, and that he would do now almost anything for money.

By Mr. EATON:

Q. He wanted money badly? Did he say anything about getting money from the surgeons in charge?—A. He did not mention any one's name, or any surgeon in charge, but he just brought up the question of money. I do not know how it came about.

Q. How was he going to get money?—A. He wanted some person to buy his stock, I guess.

Q. Stock in what?—A. His interest; he wanted to be bought out.

Q. His interest in the Interior Department or in the institution?—A. I guess his interest in the Interior Department.

Q. Some witness has said something here about some one saying that the thing could be stopped for a few hundred dollars. Was anything of that sort ever said to you?—A. It was not said directly to me, but I heard it the next day after it was mentioned.

Q. Did you hear it from him?—A. Mr. Roby was telling me.

Q. How long have you known Robert T. Johnson?—A. About seven years.

Q. What is his character?—A. It has always been very bad, as I consider it.

Q. Do you know him well; that is, have you seen him frequently?—A. I have frequented his place. I was once in the Treasury Department, and he kept a saloon and restaurant, and I took my lunch there at noon, and I got acquainted with him. I know on one occasion there were some stolen cigars found in his possession.

Q. You were not there when they were found?—A. No, sir.

Q. Then you need not speak of that. Is he a truthful man, so regarded, I mean, by people that associate with him, a man of truth and veracity, entitled to belief?—A. I never associated with him, and I do not know any person that ever has that spoke well of him.

By Mr. ALLISON:

Q. Would you believe him yourself?—A. I think I would on oath; but, ordinarily speaking, I do not say that I would believe him.

Q. You say Johnson told you he was in daily correspondence with Secretary Schurz?—A. He told me so.

Q. Did he show you any letters he had written to him?—A. He did not show me any letters, but he pointed to a package of letters, and said "Those are all from him."

Q. All from whom?—A. Secretary Schurz.

Q. To him?—A. Yes, sir.

ARTHUR MAXWELL (colored) sworn and examined.

By Mr. SARGENT:

Question. Where do you live?—Answer. 2119 Eleventh street northwest.

Q. Have you ever been a patient in the Freedmen's Hospital?—A. Yes, sir.

Q. Were you there last July, August, and September?—A. Yes, sir; I was there July and August.

Q. How were you treated there?—A. I was treated very well.

Q. Did you ever see any bad bread there?—A. No, sir.

Q. Did you ever have any bad meat?—A. No, sir.

By Mr. ALLISON:

Q. Bad hominy?—A. No, sir.

By Mr. SARGENT:

Q. Did you ever have any bad fish?—A. No, sir.

Q. How did they keep your ward, clean or otherwise?—A. Very clean and nice.

Q. What was the condition of your bed?—A. Very clean. Everything was kept very nice and clean while I was there.

Q. How did the doctors treat you?—A. They treated me very well.

Q. You are not in the hospital now?—A. No, sir.

Q. Have not been since last September?—A. No, sir.

FRANK CARROLL (colored) sworn and examined.

By Mr. SARGENT:

Question. Where do you live?—Answer. Georgetown, Bridge street, 187, between Market and Washington streets.

Q. Were you ever in the Freedmen's Hospital as a patient?—A. Yes, sir.

Q. From what time, to what time?—A. I cannot remember exactly the time I went there. I was there from 1875 to 1877; April, 1877.

Q. You left there in April, 1877?—A. Yes, sir.

Q. Were you quite sick?—A. Yes, sir; I was very low.

Q. What was your treatment?—A. I had very good treatment. I had everything I wanted, fresh meats, eggs, custards, rice, toast bread, tea, boiled milk.

Q. Did they treat you kindly?—A. Yes, sir.

Q. How often did you have eggs?—A. Three times a day some days, and sometimes twice.

Q. Did you have special diet on account of your sickness?—A. Yes, sir; I was in a room to myself the best part of the time when I was very low.

Q. Did they cure you up?—A. O, yes, sir, they cured me up. Dr. Purvis was my doctor; he attended me very faithfully.

Q. Have you been in the hospital since April, 1877?—A. I was there last week one day.

Q. Did you see any difference in the condition of the hospital from what it was when you were there?—A. No, sir; I did not see any at all; I was there this morning too, for some medicine.

Q. And the hospital was as clean when you were there before as it is now this week?—A. Yes, sir; it is kept very nice.

Q. And was then?—A. Yes, sir; I did not see any change at all.

Q. Did the patients ever complain of their food when you were there?—A. No, sir; I heard no complaint at all. After I was going about I ate in the mess-room, and I never heard any complaint there.

THURSDAY, *March* 7, 1878.

The subcommittee met at the room of the Committee on Appropriations.

FRANKLIN E. FELTON recalled.

By Mr. SARGENT:

Question. The committee have received the following letter from you:

WASHINGTON, *March* 2, 1878.

To the Senate Subcommittee to investigate the Freedmen's Hospital:

GENTLEMEN: I learn through the public press that at your last session Sister Beatrice Duffy, of Providence Hospital, made a fierce assault on myself, and, if her statements are correctly reported, she committed deliberate perjury in order to vilify me. Fair play and the commonest justice demand that I shall be afforded an immediate opportunity to appear before you and vindicate myself against the aspersions heaped upon me by feminine malice and mendacity. It is especially repugnant to my feelings to be involved in a controversy with a woman; but a female slanderer must not be vouchsafed immunity by reason of her sex, nor should ostentatious professions of religion and sanctity be permitted to ser ve as a cloak to sacrilegious hypocrisy, nor a white coronet and serge frock be suffe red, like charity, to "cover a multitude of sins."

Respectfully,

F. E. FELTON.

Answer. Yes, sir; I wrote that letter, and desire that it shall go on the record. I understand, gentlemen, through the public press, that Sister Beatrice Duffy, of Providence Hospital, at your last session, made statements that conflict with the testimony which I gave before this committee, which is God's truth. She has raised an issue of veracity between herself and me. I am ready to meet that issue, and I ask the privilege of relieving myself from any imputation in any way affecting my truthfulness. In order that there may be no misapprehension of my language, or any misconstruction of my statements, I have reduced my statement to writing, and I request to be allowed to submit it to the committee, and then I will cheerfully answer any questions the committee may propound to me.

Mr. EATON. That is not quite the position in which you stand. You ask now to testify to rebut certain charges that were made against you. The committee will hear you. We did not send for you.

The WITNESS. That is what I say. I ask permission to vindicate myself.

Mr. EATON. You are entitled to that; but why go further and say that we may ask you any questions we please? You go on and confine yourself, of course, to the points. As a lawyer you know very well what they are. You now desire to meet what you call charges that were made against you by another witness; therefore confine yourself to that.

The WITNESS. Very well. Then I wish to go further; I wish to say that I have very important information in regard to the management of the Freedmen's Hospital. As I understand, this is a committee to investigate the Freedmen's Hospital, and I desire, after I shall have made my statement in regard to this question of veracity, to give my testimony in regard to the management of the Freedmen's Hospital.

Mr. SARGENT. We examined you at length upon that matter and asked you if you had any further statement to make, to which you replied that you had not.

The WITNESS. Very well; but matters have come to me since. I was examined unexpectedly. I did not know what questions you were to propound to me, and information has come to me since.

Mr. EATON. It would not have made any difference. If it has come to you since you could not have given us the information then.

The WITNESS. What I mean to say is, that I have reflected on the matter, and matters that I was not examined upon at that time I have thought over since, and still further questions which I was in doubt about at that time I have now resolved and can give you authentic information on the questions which you asked me then.

Q. (By Mr. SARGENT.) You can proceed first and make any statement in reply to Sister Beatrice Duffy's statement in regard to you.—A. I never received from Providence Hospital any remuneration for the loss of my valuable overcoat, which was stolen while in the custody of the institution, through the carelessness of the custodian of the room where the patients' clothing was deposited. I sued the hospital when refused a settlement of my loss, but the case was not brought to trial, as I was prostrated with chills and fever on the day fixed for the hearing. I shall give the matter my attention when able to attend to business. I could have submitted to my loss with equanimity and waived my right to reparation had I been treated with civility and fairness. On the 5th of May, 1877, Sister Beatrice Duffy notified me by letter that there was a room for me at Providence Hospital if I chose to return, which I declined to do for the reason, as I wrote her, that I was not satisfied with my treatment there.

Q. Have you a copy of her letter?—A. I will explain this. Her letter to me I intrusted to O. S. B. Wall, esq., when I consulted him about my claim against the hospital. I lately wrote to Mr. Wall to return her letter to me, and received from him the following communication:

MARCH 6, 1878.

DEAR SIR: I have received your note respecting m e to return to you Sister Beatrice's letter to yourself, which you, at my request, delivered to me last May, when you consulted me about the loss of your overcoat while in the custody of Providence Hospital. Her letter was recently mislaid, lost, or destroyed, with other papers, on the occasion of the removal of said papers from my office while on fire. I think that in that letter Sister Beatrice notified you that you were at liberty to return to Providence Hospital, if you saw fit to do so, at any time, &c., &c.

Very respectfully,

O. S. B. WALL.

F. E. FELTON, Esq.

I left Providence Hospital on the 16th of April, 1877. On that very day I entered the Freedmen's Hospital. Before leaving the Providence Hospital I sought out Sister Beatrice. I met her in the corridor, on the lower floor, as she was bearing a pitcher of water. I told her that I would leave the hospital after breakfast, because I was dissatisfied with my treatment there. I meant by that that I could not get and did not get, while I was there, the services of a male nurse, which my case imperatively required.

Q. Were you in the male ward?—A. No, sir; I was in a private room.

Q. Attached to the male ward?—A. Attached? No, sir; separate, a private room The male ward was a government-pauper ward. I was in a private room, and had to pay the rates charged to private patients, entirely separate and distinct.

Q. Were there any male attendants?—A. There was a male who waited on me to bring my meals, and that was all; and I will explain that. His name was Mr. Simon, the surgical nurse of the government ward and of the sailors' ward on the lower floor; but Mr. Simon never manipulated me, and never treated me as a nurse. On the contrary, his time was so fully occupied with the surgical cases in those two wards that he would have had no time to attend to me, and I never asked him.

Q. You say you paid your expenses there. Did you pay them yourself?—A. I did not say that.

Q. What did you say?—A. I did not say that. I said that I was charged the rates of private patients.

Q. Who paid the charges?—A. My brother.

Q. In Philadelphia?—A. Yes, sir. Shall I proceed?

Q. Certainly.—A. On leaving the Providence Hospital I the same day entered the Freedmen's Hospital. At that time I was so disabled in my limbs that I was unable to walk from the medical headquarters in the Howard medical building to ward 1, to which I was assigned, and by Dr. Palmer's order I was carried from the medical headquarters to the ward in a chair borne by two men—Nathan Street and Charles Banks. Dr. Palmer is here, I see, and can corroborate that.

It is absurd to suppose that a patient who was so infirm and disabled as I was should leave a hospital to go into an active business as Sister Beatrice absurdly alleges that I did. I had no intention whatever of going into business, because it would have been an utter impossibility in my case. I do not know, as I have not seen Sister Beatrice's testimony, what other allegations she has made concerning me.

Q. Sister Beatrice says you were a person of unsound mind, in her opinion.—A. I am very glad you have mentioned that. It is alleged by Sister Beatrice that I am of unsound mind. Such a statement, of course, is a facetious fiction, and shows Sister Beatrice to be a person of "infinite jest." Punch himself never perpetrated a better joke. I would be willing to be tried by you, gentlemen, as a commission *de lunatico inquirendo* to test the question of my sanity. I will say still further that this absurd, this malicious, this monstrous charge made by that female shows her *animus* toward me—shows her malignity—which will go so far as actually to impute insanity to a man of perfectly sound mind, and shows that she is utterly unworthy of attention or belief.

Q. She also states that you used profane language at times to the patients?—A. O, certainly I did. I admit it freely.

Q. And acted in a disagreeable manner with the patients?—A. That I never heard before. Let me refer to this matter about my using profane language, because that seems to have been dwelt upon by Palmer and Purvis and Glennan, and everybody else. Let me just explain that: when I am excited I use, like a great many men of the world, undoubtedly strong and sometimes profane language. It is a habit that I have fallen into, and I use such language unconsciously, without any intention of doing wrong, but simply to give emphasis to what I say. But Dr. Palmer himself, it can be proved, has cursed; Dr. Purvis, it can be proved, has also cursed.

Q. Did you know Dr. Purvis to speak of nurses in the hospital as black sons of bitches, or things of that kind?—A. I do not know that he did, but he has cursed.

Q. It is stated that you used that character of language?—A. I did to one who, I informed Dr. Palmer, was a thief. Undoubtedly I did, but only to one that I remember. I notified Dr. Palmer that that man was a thief; that I had the evidence that he was a thief, and I requested that he should be removed. Instead of that, Dr. Palmer ignored the matter, and never investigated it. The man is there in the hospital to-day; and last Monday night the hospital baggage-room was burglarized, was broken into at night. The clothing belonging to the patients, myself included, was stolen, to the amount of from $150 to $200. It was done by some person perfectly familiar with that room. It has been proved to our satisfaction that it was not done by any patient, but that it was done by some outside party that has been in the habit of having access to that room, and the detectives and all of us are satisfied that it was that assistant nurse that Dr. Palmer was informed was a dishonest man, and kept.

Q. What is the name of the nurse?—A. His name is Henry Sanders.

Q. You were inquiring what the statement of the sister was. She stated that when you first came to Providence Hospital you presented yourself there as destitute, having no money at all, but told her you had ample means, and in a few days could get them, if they would trust you; that they believed you as such, and took you in. You were very sick at the time, paralyzed. In a few days you gave a draft on San Francisco, on your brother. She states that she left this draft at the Bank of Washington, to have it collected. It was sent on, but was not acknowledged.—A. Her statement is, like all her other statements, false.

Q. You gave no such draft?—A. Allow me to explain. When I went to the Providence Hospital I was completely disabled. I was unable to walk. It is true that I was temporarily exhausted. I stated to Sister Beatrice that I had no money then, but that I would pay her for my week's board the next Wednesday. I entered on a Saturday. I immediately wrote to a friend of mine, who sent me the money, and I paid it on Wednesday, out of my own money. In the mean time I wrote to my brother, S. M. Felton, of Philadelphia, and he wrote to Sister Beatrice that he wished that I should have whatever I required, and he would pay all my bills; and he did so as long as I was in the hospital.

Q. Did you give a draft on San Francisco?—A. I will explain that. After I had been there some time, I thought that I would draw on my brother in San Francisco, Mr. John B. Felton, who is dead now, who had previously furnished me with money whenever I had drawn upon him. I drew the draft for my own convenience; I wanted the money for myself, and not to pay her my expenses at the hospital, for my brother, Mr. S. M. Felton, was going to pay them, as he notified me and Sister Beatrice, and did pay them.

Q. Why did you give the draft to Sister Beatrice, then?—A. I asked Sister Beatrice if she had a bank-account; that I wished to draw a draft on my brother in San Francisco, and I would like to have it deposited in bank. I was unable to go out and deposit it. I simply gave it to her to accommodate me by depositing it in bank, to send it out for collection. Neither she nor the Providence Hospital would have received a cent of that money had that draft been honored. My brother, Mr. S. M. Felton, was to pay all my bills, and did pay them, and sends me money now whenever I write for it.

Q. What kind of an overcoat was that you had?—A. It was a valu-

able overcoat. It was an overcoat that I purchased of Messrs. Wanamaker & Brown, in the city of Philadelphia, at the corner of Sixth and Market streets, about six weeks before I entered Providence Hospital. I gave $23 for the overcoat, the price of which was $25, but in consideration of the lateness of the season an abatement of $2 was made.

Q. Who gave you the money to purchase it?—A. It was my own money.

Q. Did anybody give it to you for that purpose?—A. No, sir; it was my own money.

Q. Did your brother know that you had an overcoat?—A. I do not know whether he noticed my clothes. When I entered Providence Hospital I was assigned to the Saint John's medical ward. The sister in charge was Sister Vincent. I was carried by a friend up stairs because it was with the utmost difficulty that I could move one leg before the other. As soon as I got into the ward I took off my overcoat and placed it in a chair together with my hat. In that overcoat was a pair of very valuable gloves, which I have since given to Henry Baer, the nurse at the Freedmen's Hospital when I was a patient under him, and there were private papers. Sister Vincent came into the ward shortly after I arrived, took my hat and overcoat, and said, "Mr. Felton, I will carry your clothing out into my mess-room and lock them up for safe-keeping." That was on the 22d of April, 1877, to the best of my recollection. From that day to this I never have seen the overcoat. I did not have occasion to use it while I was in the hospital, but on the day of my departure I asked Sister Vincent, who had charge of the room where I was, to get my overcoat, and she left and returned in a short time and said that the overcoat could not be found. The papers and the gloves which were in the pockets of that overcoat were sent to me in my room.

By Mr. EATON:

Q. After this or before?—A. I was removed to the room, I think, a few weeks before I left the hospital. When I was removed my shirts and undershirts and clothing were carried to my room. After I had been in that room about a week I found my private papers and my gloves put on the table in my room, and I do not know who put them there. When Sister Vincent told me that the coat could not be found, I then went up to the sister who had charge at that time of Saint John's medical ward, who is called Sister Flavia, and who succeeded Sister Vincent in the charge of that ward, and asked her for my overcoat. She said, "I cannot find it; you can go into the mess-room and look among the clothing." I did so; the coat was not there. Said I, "Sister, who took my private papers and my gloves out of my coat?" She says, "I did." Said I, "Where is that coat?" My private papers were in an envelope like that [exhibiting an envelope], and my name was written on it in a feminine hand. Said I, "Sister, who wrote my name on that envelope?" She said she did. Then I said, "It is very extraordinary that you cannot account for my overcoat, for here are the private papers, and here are the gloves, which you yourself admit you took out of the pockets of the overcoat; and yet the overcoat itself you cannot produce or give me any information about." I can understand what became of that overcoat. Attached to the wards there was a mess-room; in that mess-room there were closets which contained the medicines to be given the patients, and also the patients' clothing, which the sister of the ward was invariably in the habit of taking away from the patients and locking up. The sister had charge of the keys of these closets. She was in the habit of having paupers from the government

ward attend to domestic duties in the mess-room, such as giving out the meals, washing the dishes, washing the floors, and doing all the menial service of the hospital. This Sister Flavia was a very careless woman, and when she would leave her mess-room and go into the ward to give out the medicines, she would leave, repeatedly, the keys in her closets, and the doors open, as I myself have seen on many occasions. In fact, there was one patient in our ward who was in the habit of watching Sister Flavia, and when she would come into our ward to give out the medicine, he would slip into her mess-room, go to the closet, take out the whisky-bottle, take a drink, and put it back, and then go out again before she returned.

By Mr. SARGENT:

Q. You saw that yourself?—A. I did.

Q. Were you in a private room at that time?—A. No, sir; I was in Saint John's medical ward. If I had not been I should not have known that. Undoubtedly some one of these pauper patients—and I must say that some of them are very dishonest, tramps and persons of that character—who had access to the mess-room and who were allowed to be there when the sister was away and when her closets were open, examined the clothing, and finding a very nice overcoat, took it. That is the way I account for the loss of that overcoat. I will say still further that so far as the loss of the overcoat was concerned, I am a man who takes those things with the utmost composure. I have lost a large quantity of clothing at the Freedmen's Hospital recently, and I have said nothing about it to Dr. Purvis or to Dr. Palmer—made no claim.

Q. Did you tell them anything about all this burglarizing that you have spoken of?—A. Dr. Purvis himself, on Wednesday, if I am not mistaken, called me into Brown's room and for the first time told me that my clothing had been stolen.

Q. What clothing did you have that was stolen? Name the articles.—A. I will say this, that my clothing was intrusted to the nurse, Lucius Harcomb, and with his assistance I made out the list, and I think that I sent it by him.

Q. State the articles.—A. I will state the articles as far as I can. There were eight shirts; there was one undershirt; there was one very elegant new cravat that had just been sent me from Philadelphia; there were a dozen new handkerchiefs that had just been sent me from Philadelphia; there were five pairs of stockings that had just been sent me from Philadelphia. They sent me six pairs.

Q. Who sent them?—A. My brother. They sent me six pairs, and one pair I had worn, and had it under my bed at the time, so that was saved. The nurse informed me that my frock-coat and vest were taken. I will say this, that I have not been into the baggage-room at all, and of course I had to rely entirely on the representation of the nurse who had charge of my clothing. And in addition to that, the nurse reported that eleven of my collars were taken.

Q. Was anybody else's clothing taken?—A. Yes, sir; a man named Whitcomb, a man named George W. Dempsey, and the nurse told me that Mr. Smallwood's coat was taken. Mr. Whitcomb told me last night that $75 would not restore the articles that were stolen from him.

Q. Do charity patients at that hospital—and they are all charity patients—go there as well clothed as that?—A. No, sir; and that is a very extraordinary circumstance which I am glad you mentioned. There was an extraordinary amount of valuable clothing in the baggage-room at that particular time. Mr. Whitcomb, who was remarkably well

dressed for a hospital patient, had come but a short time before, and had a valise. There was an old soldier named Dempsey, who had come from the Soldiers' Home at Hampton, and he had a valise, and had an unusual quantity of clothing. The nurse had, on the preceding Saturday, brought back a very large wash that belonged to me, and all this clothing, which was of extraordinary value for such a place as that, was collected together there, and Mr. Harcomb, the nurse, told me that he never knew so valuable a collection of clothing to be in that baggage-room at one time before; and that shows very conclusively that some person that had access to that baggage-room must have known precisely the time when to steal the patients' baggage, because there was an extraordinary amount of valuable clothing.

Q. Does this Mr. Harcomb have charge of it?—A. Harcomb and Sanders have charge of it. I will say still further that the room was kept in a very careless state; that the window which led out on the porch was open at night, although I had frequently requested the nurse to have it nailed down, as I was afraid my clothing would be taken.

Q. Which nurse?—A. Mr. Harcomb.

Q. Did Mr. Harcomb neglect to do it?—A. Mr. Harcomb himself told me the window was open.

Q. He neglected to nail it down when you requested?—A. That I do not know. He told me the window was open.

Q. Then a person from the outside could get in through that window?—A. That is the way that I and the other patients account for it.

Q. Then why do you say that it was somebody from the inside of the hospital that did it?—A. I did not.

Q. Mr. Sanders was in the hospital, was he not?—A. No; he was not. But you did not understand me, sir. I said that it was a person perfectly familiar with the baggage-room undoubtedly, because he was able to go into that baggage-room late at night, in the darkness, and put his hands right on the valuable articles, to the exclusion of worthless ones; that it was not an actual inmate of the hospital at the time, as I was satisfied and other patients were satisfied, from the fact that a new night nurse had just come on that night into our ward, and as a new broom sweeps clean, he kept awake that night, although he has not kept awake any night since, and Brown, the night nurse, went down stairs into ward No. 1, and, as that was his first night there, he undoubtedly was awake at that time; and, still further, if a patient had got out of bed and had gone back into that entry, some patient would have been there awake, or would have been aroused, and would have noticed it.

Q. Leave the patients out of sight; here was the window open on a porch; any person going by could see that the window was open?—A. No, sir.

Q. Could not any burglar prowling around the place find it open?—A. Burglars would not be likely to undertake a burglarious operation at a charity hospital.

Q. Why not?—A. Simply because they would not expect to get anything but rags. If a man is going to run the risk of his safety and commit a burglary, he is going somewhere where he is likely to find some valuable articles, either jewelry or valuable clothing, and is not going to a charity hospital, where nine-tenths of the patients are clothed in rags; at least I should suppose so.

Q. On these premises, and knowing nothing more about it than you have stated, you do not hesitate to accuse Mr. Sanders, an employé of the hospital, or to say you were satisfied he did it?—A. I did not say so.

Q. I so understood you?—A. I said that the circumstantial evidence points to that man. I do not charge him directly.

Q. These are your premises and your circumstantial evidence?—A. Circumstantial evidence points directly to that man, and not only that, the detectives who examined it were satisfied that he was the man.

Q. Who are those detectives?—A. Mr. Coombs and Mr. Miller.

Q. They told you they were satisfied he was the man?—A. They did not tell me so.

Q. How do you know they were satisfied, then?—A. They told some one else.

Q. Whom else did they tell?—A. Mr. Calvert, the engineer. I have that information from him.

Q. You have the information from Mr. Calvert that these two detectives said they thought Sanders did it?—A. That was the information I had from him. It was either Mr. Sanders or Mr. Potter; I will not be sure which. It was either Mr. Sanders or Mr. Potter. These matters have not made much impression on my mind.

Q. But it was Mr. Sanders or Mr. Potter?—A. It was either Mr. Sanders or Mr. Potter that said to me that the detectives were satisfied that it was the assistant nurse.

By Mr. EATON:

Q. You mean Calvert?—A. It was either Calvert or Potter that informed me that the detectives were satisfied that it was the assistant nurse, Henry Sanders, who committed this burglary.

By Mr. SARGENT:

Q. And that these detectives told them so?—A. I did not say that. They did not tell me that.

Mr. EATON. This is an episode.

The WITNESS. Yes, sir; and I should like to proceed.

Mr. SARGENT. Go on.

The WITNESS. I abandoned Dr. Glennan's ward at my own request, because of its extreme offensiveness and my perpetual apprehension——

Mr. SARGENT. That you testified to before. You can make any statement you see fit without repeating your former testimony. The time of this committee is valuable, if yours is not.

The WITNESS. Certainly it is.

Mr. EATON. We want to hear everything you have to say with reference to the attack of the sister, as you call it.

The WITNESS. I have—I have very fully explained it.

Mr. EATON. If you have not done so, go further.

The WITNESS. I will go on. [Reading.] I say that at no time, under no circumstances, and to no person whatever——

Mr. SARGENT. It is not necessary for you to read an editorial article. If there is any statement you wish to make that you did not make before, you can now do it.

The WITNESS. I will, sir. Since my examination I have made a very careful investigation among my private papers, and I have found the original draught of the letter written by me to Dr. Palmer, complaining of the wretched food furnished me, which I will submit:

FREEDMAN'S HOSPITAL, *July* 31, 1877.

SIR: Will you be pleased to direct that I shall hereafter be provided with proper food? The meals served me are so miserable and repulsive as to force me to leave them wholly untasted or only partially consumed. The provender is so bad in quality and meager in quantity that it fails to appease hunger, and I am losing flesh and strength for want of suitable nourishment. My physical condition requires sufficient

food of decent quality, which is all I expect or desire; but I cannot exist on stale, sour, and unbuttered bread and musty hominy, which constitute the chief articles of my diet.

Yours, &c.,

F. E. FELTON.

Dr. PALMER.

I have also found the original draught of the letter which I wrote to Dr. Palmer, complaining of the vile condition of the water-closet attached to ward 2:

FREEDMAN'S HOSPITAL, *September* 15, 1877.

SIR: More than three weeks ago the engineer tore to pieces the water-closet of our ward, No. 2, and left it in a dismantled condition, and it so continues, to the great inconvenience and annoyance of the patients.

In the interval, buckets containing excrement have stood in the room throughout the day and night, emitting a noisome effluvia that pollutes the air. Patients use the wash-sink for urinating, and the apartment presents a revolting appearance, especially at night, when it is most used by the patients, and early in the morning, when the filth of the preceding night has accumulated.

In behalf of the patients, you are earnestly requested to have the water-closet repaired as soon as practicable, and also station a urinal in the room, without which the place cannot be kept clean, as the head nurse attests, nor will the privy otherwise be fit for use, as the seat and adjacent floor become saturated with urine and slops, which in emptying are showered thereon, causing the room to be defiled so that the patients are seriously incommoded and subjected to danger of contracting disease from the virus deposited on the seat.

The patients have long hoped that this grievance would be remedied by the proper authorities; but as there is no prospect that the evil will be rectified without your intervention, you are solicited to have the needed improvements effected and the water-closet placed in fit condition for the patients' use at an early date, and thus materially promote their safety and comfort.

Respectfully,

F. E. FELTON,
For himself and fellow-patients.

Dr. G. S. PALMER,
Surgeon in Charge.

That is the original draught. I desire to call the attention of the committee to the fact that that letter was written more than two weeks after the charges of malfeasance and dereliction of duty were filed with the Secretary of the Interior, against Dr. Palmer, and about three weeks, as far as I can recollect, after Dr. Palmer's return from his summer vacation, and if Dr. Palmer had properly attended to his duties in making his regular Saturday inspection, he would have noticed the vile condition of the water-closets, without rendering it necessary for the patients to call his attention to the nuisance.

I desire in this connection to show that William Brown, the night nurse who testified before this committee at its last session, is a self-confessed perjurer.

Mr. SARGENT. I do not know that that is your business.

The WITNESS. That his statement——

Mr. SARGENT. One moment.

The WITNESS. I beg pardon.

Mr. SARGENT. If you know, of your own knowledge, any fact different from what Brown testified to, you will state it.

The WITNESS. I will.

Mr. SARGENT. But you can do it without epithets.

Mr. EATON. It is proper to say to you that we are perfectly well aware ourselves that he has testified differently on different occasions, therefore it will not do any good for you to use harsh language about Brown. Brown has testified in two different ways. We are aware of that fact ourselves.

The WITNESS. Very well. I desire in this connection, in vindication

of myself, to read the whole or a portion of an affidavit voluntarily made by Brown, and which is on file in the Interior Department.

Mr. SARGENT. We have all those affidavits here, and it is entirely unnecessary.

The WITNESS. Will you let me call your attention to the fact that he contradicts distinctly the charge he made against me, of urging patients to testify, or ever intimidating them? I should like to read that in vindication of myself. It is:

Affiant emphatically denies that he ever stated that complaints against the hospital did not begin until Mr. Felton came. On the contrary, patients have always complained of poor food and unsatisfactory treatment since Dr. Palmer has had charge of the hospital, but were unable to obtain redress, abate their grievances, or make their complaints known to the Secretary of the Interior.

This affiant never said or thought that the patients who testified before the investigating committee were continually talked to by Mr. Felton and Johnson, and that they would not have testified as they did if they had not been urged to do so. On the contrary, Messrs. Felton and Johnson uniformly declared that they wished every person who should testify as complainant's witnesses should tell the truth, the whole truth, and nothing but the truth, as they desired to acquaint the Secretary of the Interior fully and authentically how the hospital has been managed and the patients treated.

Q. (By Mr. SARGENT.) Who wrote that affidavit for Brown?—A. I wrote that affidavit at his request, and he took it down voluntarily to the magistrate's office on Seventh street alone, swore to it, brought it back, and handed it to me.

Q. Mr. Brown, from his testimony before this committee, is obviously a man of very slow and imperfect thought and utterance. The language which you have read is entirely above his comprehension.—A. That is all true; and I will state this, that I wrote this affidavit three or four times over before it was to Brown's satisfaction; that after the draught was finally completed he took it into his room, kept it one night, brought it back, said that he had read it, and that it was all right, and took it down voluntarily alone to the magistrate's office, and brought it back.

Q. Do you not know that three-quarters of that affidavit is above Brown's comprehension?—A. No, sir. I know that he knew every word of it, because I explained it to him, and I said, "Now, do you understand every word?"

Q. You schooled him and I coached him upon it?—A. No, sir; I never school or coach anybody.

Q. This affidavit evidently is not the production of Mr. Brown's mind.—A. Of course you as a lawyer understand that when a lawyer writes an affidavit he is not going to use the language, the precise phraseology, of the ignorant person. He is going to get his ideas with exactness and then express them correctly.

Q. Mr. Brown is not only ignorant but positively stupid and incapable of thinking many of the things that are there stated, no matter with what explanation.—A. Mr. Brown came back to the Freedmen's Hospital on Friday night in a maudlin state of intoxication.

Q. What Friday night?—A. The Friday night he appeared here as a witness. It was the first time that I ever saw him intoxicated, and I was surprised at it.

Q. He was not intoxicated when before the committee?—A. The next day he told me at my bed—he came in voluntarily—that he had gone out with a gate-keeper named Roby, that Roby had plied him with liquor, that he was unaccustomed to liquor, and that it affected him very seriously. Some one brought at that time the "Critic" to me, and in looking over it I read to him his statements. He said they were false. I told him he was a perjurer, to get out, leave my sight, and

bring every article that he had in his room belonging to me immediately to me, and never to speak to me again.

Q. Is this the kind of witness you rely upon to make out charges against the hospital?—A. I supposed him, until he had been tampered with, to be an honest man. That was his reputation at the hospital. Mr. Brown has been at that hospital ever since it was established, as he tells you, and he was at the former hospital for a series of years. I had supposed that he was an honest man until recently.

Q. What further statement have you to make that you did not testify to before?—A. I would like to testify in regard to another thing, that prior to the first investigation the bread supplied the patients was dingy, smelt offensively, and was nauseating stuff.

Q. All of that appears in your former testimony?—A. No, sir; I have not testified to it.

Q. It fully appears.—A. Then, can I go into another matter which shows that the hospital lost at least, last year, $800 by the way that bread has been baked.

Q. You mean a pound of bread for a pound of flour?—A. There is no pound of bread for a pound of flour. It is 196 loaves for baking 246 loaves, or in other words, the baker receives 50 loaves of bread for baking 196, and he receives at least $2.75 a barrel for baking each barrel of bread, and if he bakes ten barrels of bread for the hospital a week he makes $27.50 a week out of the hospital, or $1,430 a year.

Q. Do you know whether he is furnished with any other article except flour to make this bread, the raising materials, &c.?—A. Of course, if he makes the bread, he has to give his own labor; he has got to furnish the fuel, and he has got to furnish the yeast; but he makes the bread. Then, Dr. Palmer, in his annual report——

Q. We do not want arguments here, simply testimony. We have the report already.—A. These are facts. I am not going to make any argument, but to state a fact. If the committee do not wish information——

Q. Yes; all the facts witnesses can give.

Mr. ALLISON. We want every fact you have.

The WITNESS. I am stating facts.

Mr. ALLISON. Then go on.

The WITNESS. I will, but he directs me not to argue; I am not arguing; I simply wish to state a fact.

Mr. SARGENT. Obviously to the committee you are a swift witness.

The WITNESS. I am an honest witness.

Mr. SARGENT. That depends; and we have continually to direct your attention to the necessity of speaking of facts in your own knowledge as a witness.

The WITNESS. I am stating the facts from Dr. Palmer's statement.

Mr. EATON. Wait a moment.

Mr. SARGENT. This case is not now being summed up.

The WITNESS. I am not summing it up; I want to state facts.

Mr. EATON. If you want to state the amount of bread which a barrel of flour sends into the hospital, state it. We have had it all stated to us just exactly as you will state it; but suppose you state it too.

The WITNESS. Very well. I should like to show you, gentlemen, that Dr. Palmer, by his unbusiness-like way, has wasted the hospital appropriation. Is not that a material fact?

Mr. SARGENT. Provided you state facts within your own knowledge.

The WITNESS. I will. I am stating that right from his annual report. I do not want to argue the case at all; I want to state the facts.

Mr. SARGENT. You can do so and with less excitement and more of the air of a witness than you now have been exhibiting; that is all.

The WITNESS. Well, sir, I think the excitement is quite as much on your part.

Mr. SARGENT. Or else you may compel us to come to the conclusion, if we sit on that commission to which you referred as to lunacy, that Sister Beatrice was not so far wrong.

The WITNESS. You can come to any conclusion you please. If that is the case you had better have me sent to Nichols' instead of the Freedmen's Hospital.

Mr. SARGENT. We have no power to send you anywhere.

The WITNESS. I should like——it appears to me, sir, that you are anxious to suppress facts instead of to get at the truth. I wish to tell the exact truth about this hospital.

Mr. SARGENT. That insults the committee.

The WITNESS. It does not.

Mr. SARGENT. And is unworthy of a disinterested witness.

The WITNESS. Very well, sir.

Mr. EATON. You ought not to use language of that character, especially after you are informed by one of the committee that this very testimony with regard to the amount of bread which a barrel of flour will produce was before us. The report in your hands of Dr. Palmer we already have. If you want to state it over again I shall be very glad to hear it.

The WITNESS. I do not wish to state anything that has been stated; but I wish to show, and I think it is an important matter, that Dr. Palmer has wasted the hospital appropriation. That is my point.

Mr. SARGENT. You can make your statement.

Mr. ALLISON. Give us the facts.

The WITNESS. If you will let me go on without interrupting me—I do not wish to make an argument.

Mr. EATON. Whether you will be interrupted or not depends on whether you proceed in the proper way as a witness. Go on, sir.

The WITNESS. Very well, sir, if you will let me make my statement (examining papers).

By Mr. ALLISON:

Q. Perhaps I can help you by asking a question. Do you claim that Dr. Palmer is wasting the funds of this institution?—A. I do.

Q. Wait a moment till I finish the question—because he has made an arrangement by which a pound of flour shall be exchanged for a pound of bread.—A. I do most undoubtedly.

Mr. EATON. That is a fact.

The WITNESS. I do most unquestionably. I mean to say that over $800 was wasted last year.

Mr. EATON. This is a claim that we shall take into consideration.

The WITNESS. Very well; but I should like to give you my facts.

Mr. EATON. You can give them. We have them all. Dr. Palmer states them.

The WITNESS. Dr. Palmer states them in his own way so as to make out that it is really a benefit to the institution.

Mr. EATON. A fact is a fact. Dr. Palmer has not argued this case to us, nor do we care to hear you argue it, but you say this——

The WITNESS. Very well. Let me then call your attention to one fact. Dr. Palmer alleges that for a good baker the cost of baking bread on the hospital premises would be for board and quarters $40

per month; for fuel and other expenses about eight dollars a month, or forty-eight dollars a month, which for a year would be five hundred and seventy-six dollars. That is what he says would be the cost of baking bread on the hospital premises. I say that the cost of baking bread last year was over fourteen hundred dollars, or, in other words, that the hospital lost by this unbusiness-like way of obtaining the bread more than eight hundred dollars. That is my statement.

Q. (By Mr. ALLISON.) You are not a baker, are you?—A. I am taking his facts.

Q. And making an argument?—A. Well.

Mr. SARGENT. Now if you are through I wish to ask a question.

The WITNESS. I wish to state that Mr. Lewis Cogy, formerly night-watchman at the hospital, can enlighten the committee in reference to the question of the removal of bodies of patients by medical students at night from the hospital dead-house to Howard Medical College, and also as to the stealthy conveyance of suspicious boxes from the medical college to the vicinity of the dead-house by Charles Banks and his assistant, Wesley Lucas. Horace Sprague and Frank Lyons can testify that the corpse which was unearthed near the dead-house by Charles Banks, digging under the direction of Lieutenant Johnson, was buried there by Banks only three nights before its exhumation.

By Mr. SARGENT:

Q. Why do you call it a corpse?—A. Because I always heard it spoken of as such.

Q. The testimony of the police and health officers, and everybody else there at the time of the exhumation, is, that it was a part of a skull and bones of a thorax, without arms or legs, that it was not a corpse, and that there was no flesh on it?—A. I have always heard it spoken of as a corpse.

Q. Have you talked with these witnesses recently?—A. What witnesses?

Q. Those you have now mentioned?—A. Have I?

Q. Yes, sir.—A. I did not learn this fact about Mr. Cogy until within a day or two, when he accidentally talked to me.

Q. Did you talk with Horace Sprague and Lyons?—A. I have not spoken with Lyons for months, and I never spoke to him on this subject.

Q. And the other one?—A. I did once merely ask Sprague whether he knew anything about it, and he said he did.

Q. When?—A. I suppose three or four weeks ago.

Q. You have not seen any of them for three or four weeks?—A. I did not say that. I told you I saw Mr. Cogy lately. Sprague I did once ask if he knew anything about it.

Q. When was that?—A. I told you as near as I can recollect.

Q. Three or four weeks ago?—A. Three or four weeks ago.

Q. It is in testimony here that you are accustomed to school witnesses?—A. It is false.

Q. It is in testimony here, and I wish to give you an opportunity to reply to the allegation?—A. It is——

Q. One moment; hear me.—A. Certainly.

Q. It is in testimony here, by quite a number of witnesses, that you are accustomed to assemble persons about the hospital to school them, to tell them just what they should say, to correct them if their testimony does not accord with your ideas, and having so coached them to send

them to the various committees of investigation.—A. I wish to say right here and now that it is absolutely false.

Q. There is no truth in it whatever?—A. I mean to say that I am a lame person and cannot collect any witnesses, and every one that has come to me has come voluntarily, and that I have invariably said to every person, "Tell the truth and the exact truth, no matter whether it is for or against any particular person or persons; let the Secretary of the Interior or the proper authorities know precisely and authentically how this hospital has been managed." I have always said so invariably.

Q. Have you written down any affidavits for any persons in favor of the hospital?—A. Anybody?

Q. Yes, sir.—A. I never knew anything that could be said in favor of that hospital under Dr. Palmer's management.

Q. You have never written down any such affidavits?—A. No, sir; and never shall.

Q. You have written down a great many for persons against it?—A. None that I know of. A great many, you say.

Q. You mentioned one.—A. You say a great many. No, sir.

Q. You have prepared those which have been written down?—A. No, sir; not a great many.

Q. Which have you written?—A. I wrote, at his request, as I told you, that of Mr. Brown.

Q. Never mind the request. Which did you write?—A. I will tell you. I wrote his. I wrote Lucius Harcomb's, stating——

Q. Never mind stating the contents. We have the affidavits.—A. Lucius Harcomb's.

By Mr. ALLISON:

Q. Johnson's. Did you write anything for Johnson?—A. No affidavit. No, sir.

By Mr. SARGENT:

Q. The charges you wrote for him?—A. I stated that I draughted the charges.

Q. State any other affidavit that you wrote.—A. I think I submitted three counter affidavits to the Secretary of the Interior. I have forgotten whose the third was.

Q. Did you write an affidavit for Nathan Street?—A. Yes, Nathan Street; that is the one.

Q. You say those are all?—A. They are all that I recollect. There may be more.

By Mr. ALLISON:

Q. You never get excited about the hospital, do you?—A. Excited! I do get excited when vermin get on my clothing, and when bed-bugs get in my bed, and when rotten meat is brought me.

Q. I mean in conversation with the other inmates?—A. I am an emphatic, earnest man, as you probably see.

By Mr. SARGENT:

Q. Do you hold meetings at your place and talk so loud and make so much disturbance that the nurses or watchmen are compelled to disperse the assembly?—A. Not that I have ever heard of.

Q. I ask you as to the fact?—A. I never heard of any watchman dispersing any assemblage. I know we have been surrounded by spies.

Q. No watchman has told you to cease that loud and boisterous conversation late at night?—A. I believe there was a drunken fellow

once came up, a man named Wall, a particular friend of Dr. Purvis, and on one occasion I think he said something of the kind; told Mr. Brown that he would not have so much noise, I think; but that man Wall was dismissed for improper conduct by the order of the Secretary of the Interior. He is not there now. He is a man that was formerly a police officer, and was dismissed for disorderly and drunken conduct on the police.

Q. How do you know?—A. By common report.

Q. You are testifying under oath, are you not?—A. By common report.

Q. At whose request was Wall dismissed from the hospital?—A. I do not know.

Q. At yours?—A. No, sir.

Q. At Mr. Johnson's?—A. Not that I know of. I know nothing about it.

Q. Does your brother send you money directly?—A. Yes, sir.

Q. Did he while you were in Providence Hospital?—A. No, sir.

Q. Why not?—A. I do not know. Because I suppose he thought, as I could not get out, I would not want money, and he sent all the money that was requisite for my expenses to Sister Beatrice. He never told me anything about it.

Q. Do you not know that he would not send it to you because he could not trust you with it?—A. He never intimated to me anything of that kind.

Q. Did he not give you money to go to San Francisco?—A. Yes, sir.

Q. Which was spent otherwise, and you did not go?—A. Let me explain that. You are going into family matters, but at the same time I am very glad you are. He gave me money to go to San Francisco, and I started for San Francisco and came here to Washington. I intended to go out with a gentleman to San Francisco, my former partner, Judge Titus, of Arizona. I was taken sick and was obliged to enter the hospital. That was the simple fact of that.

Q. You have no resources of your own?—A. No, sir.

Q. You live on the money given you by your brother and by the charity that you receive at this hospital?—A. I do not know about the charity. I am an inmate of the Freedmen's Hospital.

Q. A non-paying inmate?—A. I never heard that anybody paid.

Q. In a document which you submitted to the committee and which is published in the testimony, you recommend that paupers be removed from that hospital?—A. Certainly I do.

Q. Would not that remove you?—A. No, sir; because I am an invalid.

Q. An invalid pauper?—A. No, sir; I do not consider that I am. I do not consider that any sick person in a hospital is a pauper. That is a mere matter of judgment of mine.

Q. I wanted to know the discrimination you make.—A. I make this discrimination; that the Government of the United States never keeps an almshouse, and that paupers are the inmates of almshouses, but the Government of the United States supports this hospital and the inmates are not paupers, but they are patients. That is my distinction. Not only that, the law recognizes that distinction. Fifteen thousand dollars is appropriated a year to the Providence Hospital for the maintenance and support of poor, sick, and transient persons. It does not say "paupers."

Q. You yourself used the phrase "paupers" and I thought it a very harsh one, and that is the reason I called your attention to it.—A. Very *well*; let me explain then. There are able-bodied men there at the hos-

pital who are perfectly healthy and are simply paupers. They are not fit inmates of the hospital. That is what I mean by that word.

Q. Is Mr. Potter one of those?—A. No, sir; he is a man that has consumption.

By Mr. ALLISON:

Q. How did he get in?—A. Dr. Purvis turned him out, and the Secretary directed that he should go there.

Q. How do these paupers get there?—A. Heaven only knows; I do not; by favoritism, I suppose. I should like to state one more fact. During my sojourn at the hospital no female physician or female medical student has ever visited ward No. 1 or 2 while I was a patient therein except Miss Sargent and Nancy Stafford; that no person claiming to be chaplain has ever visited a patient in either of these wards and read to him, wrote his letters, or administered religious instruction or consolation; that a Catholic priest, Father McCarthy, is the only spiritual adviser that I have ever seen attend on the sick or the dying.

Mr. SARGENT. That is all, sir, if you are through.

The WITNESS. I submitted, when I was first examined, a list of improvements requisite to convert the Freedmen's Hospital into a proper sanitary institution, and which can be effected wirhin the limits of the appropriation.

Mr. SARGENT. That is all printed.

The WITNESS. I wish to submit a suplemental list containing additional suggestions.

The paper is as follows:

Supplemental list of improvements requisite to convert the Freedmen's Hospital into a proper sanitary institution, and which can be effected within the limits of the current appropriation.

1. A bakery is imperatively required to be establishe1 on the hospital-grounds, so that good, palatable, and healthy bread may be always supplied at actual cost. Under the present faulty system flour is purchased on account of the hospital at $7.50 per barrel, and sent from the warehouse to a small baker who could readily convert it to his own benefit by making it into good bread for his customers, while he furnished the hospital with a certain number of loaves of poor bread made out of musty, unmerchantable flour purchased at a trifling sum per barrel. That such exchange of flour and fraudulent imposition have been practiced on the government and patients is attested by the dingy, ill-smelling, and repulsive bread that was uniformly supplied the patients prior to the late investigation, and the door should be promptly closed on such flagrant malpractice and deception. A bakery, moreover, would be an extremely useful adjunct to the hospital, since, when not in use for producing bread, it could be advantageously employed in baking meats and other food for the patients' diet and thus variety could be introduced into the meals instead of the monotonous, rough fare provided them at present.

2. New and suitable furniture should be placed in the wards, and the comfort and wants of the invalids should be consulted and provided for.

3. Curtains should be put up at the ward-windows to shut out the glare of the sun from bedridden patients, and exclude the cold draughts of air which chill the sick and aggravate their maladies.

4. The ground, whereon the hospital-buildings severally stand, should be cleaned of rubbish and decaying matter and be thoroughly disinfected and regularly cleaned hereafter to prevent deleterious gases and miasmatic exhalations from arising therefrom to pollute the atmosphere of the wards, engender disease, or retard convalescence.

5. The hospital inclosure should be carefully policed daily.

6. A competent, honest person should be appointed steward, and exercise supervision and control over the kitchen and mess-room, select the cook, and be accountable that the meals are properly cooked and served. He should prepare an appropriate bill of fare for each day, subject to the approval of the surgeon-in-chief, and have the custody and distribution of all hospital supplies, and summarily reject all provisions that are not of standard quality.

7. A room separate and apart from the laundry should be appropriated to the reception and storage of unclean clothing, instead of depositing in the laundry, whereby

vermin are communicated to the clean clothing which is weekly distributed to the patients in the wards.

8. The Secretary of the Interior might advantageously depute three intelligent and experienced persons as inspectors of the hospital, who should make frequent and unexpected visits to the institution, examine the buildings and premises carefully, investigate the condition and treatment of the patients, suggest remedies for existing abuses and needed improvements to increase its efficiency, and make a written report of their proceedings monthly to the Secretary of the Interior. A zealous, competent woman should be selected as one of the inspectors, as a woman would be better qualified than a man to make a proper examination of the female wards and ascertain the condition and requirements of the patients.

9. A house physician should permanently reside at the hospital and attend to all cases of emergency at night, instead of summoning inexperienced medical students in such contingencies, or wasting valuable time in sending for a surgeon to perform an operation in case of sudden accident, as at present.

10. The butcher, baker, milkman, coal-dealer, and retail grocer should be discarded, and tradesmen of approved integrity should be employed in their stead. All supplies should be purchased by contract, as far as practicable, in strict conformity to the statute in such case made and provided. Dishonest and incompetent employés should be discharged and trustworthy and efficient persons appointed in their place. The present employés, as a class, are falsifiers, hypocrites, and thieves, as might be expected from the character and practices of their employers.

11. The anomaly of a "slush fund" should no longer be tolerated as a device to pilfer from public treasures by covering up larceny, embezzlement, and frauds perpetrated on the government to the detriment of the hospital. All moneys received on account of the hospital should be covered into the Treasury, as required by law.

FRANKLIN E. FELTON.

WASHINGTON, *March* 7, 1878.

O. S. B. WALL (colored) sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. I reside near the Freedmen's Hospital; right in the vicinity, two, three, or four hundred yards from it.

Q. Your name has been sent to this committee as a person who is personally acquainted with the conduct of the Freedmen's Hospital during the last two or three years. What do you know, of your own knowledge, about that?—A. I wanted to ask a little liberty, if the honorable Senators would permit, to make a little statement. I do not ask you to violate the rules for me, but that does not just represent me exactly. I wish to make a little statement with reference to myself, a personal matter. I have been brought into this matter without my seeking—very foolishly, I think. Some time ago, some few days ago, perhaps a week ago, somebody from Wall & Robinson's store made a sworn affidavit here with reference to myself. If the committee would permit me to have that referred to so that I could speak with reference to that matter——

Q. You mean the testimony of your brother?—A. No, sir.

Q. [Handing to the witness the affidavit of Mr. DeMott.] Is that it?—A. [After reading the affidavit.] Thank you, gentlemen, for permitting me to read that. I wanted to say that, in 1873, several years ago, I became acquainted with the firm of Wall, Robinson & Co.; that was before they got into a fuss, a trouble; a little quarrel among themselves. This whole thing is got up with that sort of animus. I did a good deal of trading with them. I traded several hundred dollars' worth for myself and boys. I induced a number of my friends to go there. They would say to me, "If you have any friends, or anybody that wants clothing, get them to come and see us, and do what you can." I said, "Certainly, I will." I had done it on a number of occasions, and had traded with them two or three hundred, or probably several hundred dollars' worth. One day when I went in to settle my account (it

was just $40 exactly), Mr. Robinson met me and said, "Mr. Wall, I am going to surprise you this morning." I went in to pay them the account and intended to do so. It was an amount charged against me. Said I, "Surprise me how?" Said he, "We have an account against you of just about the amount we are going to make you a present of." "How is this present?" said I. Said he, "You have been a good friend of ours; you have helped us considerable." I said I was not aware of it. Said he, "Well, we feel just so; we are going to do that thing for you." Said I, "Does your partner know about this, does he understand this?" Said he, "Certainly." Mr. Wall stood a little piece off. I accepted it, thanked them, which I should do again if they did it, and went home and told my wife about it. The matter passed off until about a year or year and a half ago, when I was sued. He first sent me notice. I supposed he had made a mistake. I was certain I had a receipt in full and had not traded a dollar since but what I had paid those gentlemen for out of my pocket. In a few days they sent a summons. That stirred me up. Said I, "Perhaps there is something in this." I went down and called Mr. Wall's attention to the matter and said, "This is the first time I ever was sued in my life. What do you mean? Are you sure it is right?" He said, "There is an account standing here against you." Said I, "You certainly ought to remember; Mr. Robinson said you understood about it. He told me I had been a good friend of yours and had traded very much with you, and it has been about a year and a half ago since I think you made me a present of so much as stood to my account." "O," then said he, "I know, I understand all about it." Now, whether he meant the Freedmen's Hospital influence or not, I do not know. I never had used any for them, never had intended to do so, except that I asked Palmer once if he would not give this man, Robinson, the trade since they had dissolved. Palmer said, "No; I am trading with Mr. Wall; he is a very nice man." Said I, "That is all right; I think he is," or some such expression as that I made use of, never having any knowledge in my life of having done anything for the Freedmen's Hospital. I would just as soon have asked them or any other friends in the world to have traded with him as any; but in consideration of that I had no sort of knowledge of this being that way. Mr. Wall knew it, was cognizant of the fact just as much as Mr. Robinson, about the present of that amount, because I had traded several hundred dollars with them and sent them good customers, and he said in consideration of that he would do it without any mention of the Freedmen's Hospital in the premises.

Q. Is this the matter which you wished to appear before the committee about?—A. Not altogether. That is my personal explanation with reference to that matter, and they can send out and bring in men to disprove my word in this District if they want to. Another matter that touches me particularly, a matter, too, that I am sorry to come before you gentlemen upon, is in regard to the reference made to me by Mr. Collins Crusor that I had intimated to him that if Dr. Purvis would give me so and so the thing could be stopped. I could not see what it had to do with Palmer and Purvis's crookedness at the Freedmen's Hospital, but it was lugged in. I wanted an opportunity to reply to that, which I do on my solemn oath. Some time ago, since this investigation commenced, Collins Crusor came to my office as a sort of go-between man between Dr. Purvis and other parties. I had been often before the committee that examined up at the Freedmen's Hospital spoken of, maligned, and blackguarded in that committee as being the person who instigated this investigation. I have been spoken of a number of times. I asked my friend, Mr. A. G. Riddle, why it was that I was spoken of

there at all. I say here that I never had anything to do with these charges, did not know that they were instituted at all until after it was, and read with as much surprise in the papers the charges and specifications as any other citizen. I have lived there by that hospital, and for years have been passing by; I used to occupy some representative character; I used to belong to the noted historical legislature here; and this was in my immediate neighborhood. This little prominence made these poor people come out on my pathway going to and fro, and they have told me hundreds of times of the mismanagement, the ill-treatment, the sort of food, the sort of treatment they had in that hospital for years. I simpl y had wished in my very heart that there might be some investigation of the matter; if even the one-fourth of what they said was true, I made all sorts of allowance about their complaining and that sort of thing, but God knows I had nothing to do with it except when the charges and specifications were made, I then hoped there might be a clean and fair investigation.

Q. Did you have meetings in your office and consultations in reference to this matter?—A. No, sir; not specially, but persons have been there.

Q. What persons?—A. Just let me go on and make my statement and I will come right to that. Of course I am under your control.

Q. Go on?—A. Thank you. After this investigation had commenced and I was in full sympathy with it, as every good citizen ought to be, on the statements made to me by honorable persons, though they were black, some of them, a good many white ones too; I then was perfectly quiet in the matter, doing nothing at all that I should not do, because I had a talk with Dr. Palmer and told him fully my sympathy with the arrangement; never said anything to him but I said worse to somebody else. Collins Crusor came to my office, and said he, "Wall, what have you got against Purvis?" "Purvis," said I; "nothing in the world; he and I are good friends." "Why," said he, "are you raking this thing in this way?" "Why," said I, "Crusor, I have not the honor to be the instigator nor originator of these charges at all; that I have not the honor to be; I am in sympathy with them, but I knew nothing of the commencement of them. Why do you appeal to me for it?" Says he, "Wall, if you will stop this thing, we know you have influence enough to do it; you can name anything you want; anything under God's heaven, only do not ruin that poor young man." I said, "I have not any more against Purvis than I have against my little baby. There is an investigation going on against Palmer and the hospital; and Purvis, big man, throws himself in the breach; that is his privilege." Then says I, "If there is anything that comes out he must catch the shots." "Well," said he, going, "say what you want; anything that you want you name it," and said he the last time he was there—for fear you will not give me time to give all the conversation—the last time he was there, said he, "Anything you name that you want under God's heaven you shall have, and I am authorized to say it to you, and I could have brought it to you in writing, but it would not be exactly proper to do so." That is what Mr. Collins Crusor said to me. We shook hands and pledged secrecy upon it. I said to him, "Collins, Purvis has not anything to give me; I do not want anything from him, nothing in the world;" and said I "I only want that those poor people be properly treated." Said he, "Wall, we care nothing about Palmer; we would just as soon Palmer was out as not; we would rather have him out of the way; only we want to get Purvis in, we want to have him, that is all; God knows that is all. I am saying to you the strictest truth." He said it with emphasis over and over to me. I said, "Crusor, I want nothing; Purvis has nothing to give me. I want those poor people properly treated, that is all, and all the interest I have in the matter."

Collins knows that I did say so. "Now," said he, "don't say anything about this, will you?" Said I, "Certainly not," and I should not until I was released by his coming before the committee here and referring to the matter; never would have done it; never would have come before this committee; did not go before the other because I did not want anything of that kind, because I had no personal direct knowledge except hearsay, and my being a sort of one-horse lawyer I knew if the committee had a mind to adopt the rules as they do in court I would not be likely to have anything at all to say directly and positively. I have been in the wards some few times, but not enough to notice very much, but I could say that they were not in such condition as I consider a well-regulated hospital.

By Mr. ALLISON:

Q. You thought so from what you saw?—A. Yes, sir; I did, because I had the honor once of being a colored captain in the Army, and was thrown, at Beaufort, S. C., sick in the Sands House there, looking over on to Saint Helena; I was in that hospital ten days, and I had been in other hospitals at Charleston, while on duty there in my official position, and I had seen them kept differently. The atmosphere was bad, and the bedding and all that sort of thing looked bad, very, but not enough to make me want to come before a committee to make any statement about it. I had never thought of doing so at all. I wanted to deny this statement and give the facts with reference to what Mr. Collins Crusor said, and that I never said to him that I complained that I wanted Purvis to give me something—never in the world.

By Mr. SARGENT:

Q. Now, I should like to ask you a few questions, if you will sit down. You were furnishing goods to the hospital up to October, 1876?—A. Not I; a partner of mine.

Q. What was the name of your firm?—A. It was Wall & Fink.

Q. You ceased furnishing them about that time, did you not?—A. About which time?

Q. About October, 1876.—A. I cannot give the dates, but it was some time, I think, before the investigation began, but I have no data with me to give dates.

Q. Did Dr. Palmer complain that your firm was charging too high prices?—A. Not more than the usual complaint; no, sir.

Q. Did he not call your attention to it in writing?—A. Furnishing more than others?

Q. That you were charging higher prices?—A. No, sir; he did not.

Q. We have here a copy of a letter, furnished by the Interior Department, which reads as follows:

FREEDMEN'S HOSPITAL AND ASYLUM,
Washington, D. C., October 7, 1876.

O. S. B. WALL, Esq.:

I have been comparing the prices charged by Charles Fink & Co. for groceries and supplies furnished this hospital, and I find they are very much higher than I pay for the same articles at other places. For instance: I pay for soda-crackers seven cents per pound. You charge ten cents; a difference of 42 per cent. I pay for potatoes one dollar. You charge $1.25; difference 13⅓ per cent. I pay for cheese fifteen cents per pound. You charge twenty cents; a difference of 33⅓ per cent. For candles I pay sixteen cents. You charge eighteen; difference 12½ per cent. You see the average percentage is very large.

My directions to Dr. Glennan were to send a very large proportion of orders to you, and to continue the patronage to you so long as the quality of the goods and the prices are the same as are obtained at at other places.

Very respectfully, &c.,

GEO. S. PALMER,
Surgeon-in-Chief.

A. Now, let me reply to that.

Q. Did you receive that letter?—A. I did not receive it.

Q. Did your firm?—A. I think Mr. Fink did something to that account. Now let me say with reference to that matter and this letter. Mr. Fink had been furnishing a number of goods. I do not know whether we were high or not; that makes no particular difference if we were, so far as this matter is concerned, but we may have on some of these articles furnished high, but not higher than a great many others had furnished and been paid for; which Palmer, himself, confessed in a conversation with him, and so did his receiving-man there—the one-legged man. But I knew nothing particularly about this, because Charley was at the store. He was a sort of a partner with me; that is, I furnished part of the capital. It was a little store near the hospital. Dr. Palmer and Dr. Purvis proposed to send orders there. Some of the times I would be there. I do not know that I ever saw that letter; yet Charley may have mentioned it to me.

Q. Dr. Palmer ceased trading with you, did he not?—A. No, not at that time; no, sir; not at all.

Q. Did you reduce your prices?—A. I do not know as to that. We went on furnishing.

Q. How long after that?—A. I cannot tell you how long—quite a time.

Q. Two or three months?—A. I think all of two or three months, but I am not certain.

Q. Longer than two or three months?—A. You are pressing me about a matter that I have not any data on.

Q. After this trade was taken from the firm, then you found that the hospital was in very bad condition?—A. No; do not make that statement for me. If you and not I am going to testify——

Q. Very well, I want to know if your interviews with persons with reference to this hospital, &c., and your discoveries with reference to the hospital, were made during the time you were trading with the hospital?—A. If I may be allowed——

Q. You are allowed anything exactly as any witness.—A. If I may be allowed, I want to ask the Senator not to infer that I said I had conferences, and take it for granted. There has been no such thing in my evidence or examination-in-chief that I have stated.

Q. You spoke of persons who conversed with you with reference to the affairs of the hospital?—A. Certainly; a number of them.

Q. Was that before or after that?—A. What—the conversation about the affairs of the hospital?

Q. Yes, sir.—A. Before and after, a number of times by the most honorable citizens in the District, and lots of them.

Q. State those most honorable citizens of the District who conversed with you about it.—A. Well, there is Dr. Joseph, the disbursing officer in the Interior Department.

Q. Did he tell you the affairs were not well conducted?—A. I do not know that he did. I said he conversed with me.

Q. Name the next; I speak about persons with complaints.—A. I do not remember. If you will give me until to-morrow, I will get you a list of names and bring them in. I do not know that I can on the spot without any sort of notice; but I will name a number of honorable citizens, white and colored, who spoke to me about the matter.

Q. Who complained of the hospital management?—A. I have not said that, but who have asked me in reference to the matter.

Q. Then I will ask you another question. Did you send for James

Hurd, one of the nurses, and Fanteroy, a cook, to come to your office to talk to you about hospital matters?—A. No, sir; not if a hundred of them should say so.

Q. At a time when Chase and Dr. Augusta were with you at your room?—A. Is that question included in the first? Is that a continuation?

Q. Yes, sir.—A. No, sir. I did not know but it was a separate question.

Q. Were Dr. Augusta and Chase with you?—A. At what time?

Q. At any time consulting with reference to the matter of making this investigation successful?—A. O, no, sir; we have talked there casually and informally a dozen times certainly about the hospital matter.

Q. Did you say to your brother that if he would take hold and help this investigation and get these persons out it should not hurt him; that he would get better prices for his milk?—A. No, sir.

Q. Or anything of that kind?—A. No, sir. I will state in reference to that. My brother, A. G. Wall, came to me and told me that if he had a mind to he could go into this thing, and, says he, "There is not any of them that knows more; I could perfectly burn these hospital fellows up; but," said he, "my bread and butter depends on it and I am not going to do it." That is what I am telling you, under oath, that he said to me.

Q. Your brother also testified under oath?—A. I have not said that he did not. I am simply stating that in reference to myself.

Q. Why do you repeat that you are under oath? We know you are under oath. Proceed and give your testimony.—A. Yes, sir; it was a sort of addendum, but I will not say it any more if it is against the rules. I wanted simply to say this, that my brother said that to me. I said to him, "Whatever you know go and tell under oath—nothing that you do not know—nothing that is not correct, and so far as my influence is concerned, if there is a reorganization there, it will never harm you any." I said just that, honorable Senators, and nothing further to him, and nothing to any human being. The idea of my trying to induce anybody to testify what was not true!

Q. You did not say to him that if he would take hold and assist in getting out Dr. Palmer, he should get a better price for his milk, or anything of that kind?—A. Why, certainly not.

Q. You did not say to him that these persons ought to be turned out because if a colored man got the furnishing of the milk the price was cut down?—A. Why, no, sir. I told him that since colored persons had gotten it, it was cut down, which was a fact and will be shown upon the records, and they cannot dodge it.

Q. You did not tell him that if you could accomplish your purpose, which you were positive of doing, of putting a man in the hospital that you could control, he need not be afraid at all, he should not be removed from his present position of furnishing milk to the hospital?—A. Why, certainly not. The poor fellow has been gotten up to make this statement. Certainly not. I do not talk any such way to anybody.

Q. You contradict your brother in these particulars.—A. I make my say. If it contradicts him, it does.

Q. Did you have a conversation with Mr. Hoover in the hall of the Patent Office, in which you offered Mr. Hoover the supplying of the meat for the Freedmen's Hospital for a bonus?—A. No, indeed. The only time I ever saw Mr. Hoover, he came to me in the little Northern Liberty Market and said to me, "Mr. Wall, they tell me you are a man

of a good deal of influence, and if you can get me the supplying of the meat I will make it interesting to you; I can afford to." I said, "Now, Hoover, if I can say any good word for you, I will." I told him so three or four times. I do not think I mentioned his name to anybody, for I do not have any respect for a man who approaches me with a bonus in an unfair way. I got rid of him in that sort of way. I say that I did not.

Q. You did not say to him that you would get him the chance of supplying the meat if he would pay you a bonus?—A. No, sir; I did not. I say that. I answer that square.

Q. Did you not say to Dr. Purvis that if he would get you the supplying of the meat and coal and groceries, his (Purvis's) groceries and meats should not cost him anything?—A. No, sir; most certainly, sir, that I did not. I ask your pardon for saying I swear to it. I certainly did not.

Q. Did you go to Secretary Schurz and ask him to readmit Potter to the hospital after his discharge?—A. I do not think I did. I went down two or three times to do it—to ask him to readmit Mr. Potter—but I do not remember whether I got to see him or not.

Q. When Mr. Felton went to see the Secretary, did you bring him back in a carriage?—A. No, sir; I never was in a carriage with Mr. Felton, except from my office to the hospital, in my life. I paid Mr. Prior a dollar to take Mr. Felton, because he told me he wanted to go, all of which I would do again. I had a right to do it.

Q. I am not questioning your right; I am simply trying to get to the point whether you had taken an interest in the investigation more than an ordinary citizen, and whether it had any connection with your business affairs, and the fact of their ceasing to allow you to supply groceries. I notify you that that was the object of the question.—A. Senator, I am much obliged to you. I am in sympathy with it, because I believe there is crookedness there.

Q. It had nothing to do with the fact that they ceased buying groceries and things of your firm?—A. No. Now here is another point, that I kept right along after this investigation commenced, furnishing milk there right straight along. I did not get the milk-furnishing from Dr. Palmer; I got it from his predecessor, Dr. Reyburn, and then continued along with them, and continued after the investigation commenced some little time, two or three months.

Q. Did you have a meeting at your office when there were present, Mr. Calvert, Mr. Chase, and Mr. Potter, on this subject?—A. Not a special meeting; they have been all there several times.

Q. Were they caucusing on this subject?—A. I do not know, sir; we were talking about it as citizens had a right; we were all in sympathy with the investigation and we talked about it.

Q. Assisting it along?—A. I hope we were, if it was right to assist it; if it was wrong, I am sorry for it.

By Mr. EATON:

Q. When did you first become acquainted with this hospital?—A. I have known it ever since it was built and put there—before even the patients were removed from what was called Campbell Barracks.

Q. You spoke of having a place not a great way from the hospital?—A. That is my residence, my home.

Q. Were you in the hospital frequently during Dr. Reyburn's time?—A. Yes, sir.

Q. As frequently as you have been since?—A. Just about.

Q. What is your opinion with regard to the condition of the hospital five years ago as compared with it one year ago?—A. Well, sir, I considered it very much better under Dr. Reyburn's management, than since, because I consider that these gentlemen did not attend to their business since they took charge, that is along for quite a while. I think they have been very much on the alert since the investigation commenced, but I think they did not attend to their business near so well before. I think everything was sort of loose; nobody cared anything particularly about it, and they were spending very little time at the hospital, as I have seen myself.

Q. Did you express such opinion to these men as you knew them and were in the hospital and interested in it?—A. No, sir; I did not express these opinions to them. I know now since the matter is up and remember the condition the thing was in before, and how it has been since, that I am satisfied it was very much better run before, according to my opinion.

Q. In what particular?—A. As to cleanliness.

Q. Take that point. Go back three years or four years, if you please, before the present surgical force was there. Take any ward that you like—the first or the second ward. Do you remember passing through those wards two, three, or four years ago? I am very frank to tell you why I ask this question. We have had testimony before us by competent people, and I suppose honorable people, who speak of the cleanliness of the wards then, and compare it with the cleanliness of the wards now. I do not say how they compare them, but they give their opinion. Now, you have spoken of the cleanliness. If you remember the condition of any ward—no matter what ward—but any one you please, in Dr. Reyburn's time, compare it with its condition a year ago before the investigation.—A. Now, let me say just this much. As to having a direct and exact minute recollection, except this sort of general impression that I would get so many years ago as Dr. Reyburn was there, that general neatness and order and system seemed to prevail there at that time. Since that time I have been struck because I have passed into the ward over next to the park. I do not know the number of the ward. I did go in on one or two occasions to see Dr. Palmer, maybe to get him to sign some pay-bill or speak to him about it, a year ago or more—about the time we were furnishing—and the stench and the deadly sickening atmosphere, and then the general appearance—I cannot particularize other than just that, and that is what I intended to say in my evidence, that I could not speak of my own personal knowledge; that is what I have said all the time, and that the most I could say was hearsay.

Q. We do not want any hearsay.—A. I do not propose to give any. I am only giving what my impression was at the time, without being able to particularize, when Dr. Reyburn was there, and what the feeling was when I have been in, about a year ago.

Q. Let me tell what I want to get, if you have any recollection of it whatever. You are an intelligent man, I see, and you say you are a part of a lawyer——A. A sort of one-horse one.

Q. Whether one or two horse, I do not care. No matter about that. You know that testimony, to be worth a copper, should go to the point. Now, if you can state in what degree or in what manner there was any difference in the cleanliness of wards in Dr. Reyburn's time and in this man's time, a year ago, I should be glad to hear it.—A. I can only say this: that then, from the appearance and atmosphere in Dr. Reyburn's time, everything was much neater and sweeter; the bedding, and the

floors, and all that sort of thing, which as a man would see in passing through.

Q. But there never was a hospital on the face of the earth but what at sometime emitted a stench; I do not care where the hospital is.—A. I am saying this: that since that time, the appearance, the smell, and all that, was very different.

Q. Were the floors cleaner?—A. Yes, sir; I will say it.

Q. That you will swear to?—A. I do swear to it.

Q. Were the beds cleaner?—A. The beds were cleaner.

Q. Had your attention been directed to that?—A. Not particularly. I say the floors were cleaner, and the beds were cleaner. I only speak generally.

Q. Were the walls cleaner?—A. I do not know now that I directed my attention to the walls.

Q. You did to the floors and bedding?—A. I say so far as appearance goes; I did not go in as an inspector.

Q. No matter whether you did or did not, if you inspected.—A. I did in that sort of casual way.

Q. Was the clothing on the patients cleaner?—A. I cannot say as to that, because generally they are covered up in bed; but the beds and everything had a neater appearance in Dr. Reyburn's time than now, as I can recall and recollect; and I say this from my general impression. The honorable Senator recollects that I did not come here to testify specifically with reference to the workings of the Freedmen's Hospital, as I said, but to make those personal explanations, and this I only give as a general impression.

Q. You went into this, and going into it I want to see what the value of your testimony was.—A. That is all, Senators, just what I stated to you.

By Mr. ALLISON:

Q. Did you know Assistant Secretary Gorham, of the Interior Department?—A. No, sir; I do not know him. I have no knowledge of him.

Q. He was Assistant Secretary under Mr. Chandler—A. I do not know him that I know of. I have no knowledge of him.

Q. Do you not remember to have gone to the Interior Department and made a request there that Dr. Palmer should remain rather than that Dr. Reyburn should be restored?—A. I have done that, certainly. I helped to get him in his position after exhausting myself on Purvis.

Q. And you tried to keep him there?—A. I did for a while, certainly. All that is correct.

By Mr. EATON:

Q. You say you tried to keep him there. How long did you try to keep him there?—A. I cannot tell how long I tried to. That would be an impossibility.

Q. A year?—A. It might have been two, but I cannot now say when he was put in.

Q. Do you mean to tell this committee deliberately that after getting a man in there and exhausting yourself—if I use your own expression—in order to get him in, you tried to keep him there for a year, perhaps two years, when all the while the hospital was not as well cared for as it was under the other man?—A. But I mean to say deliberately and squarely, and under oath, if you will permit me to say so—anything that I say I mean to say deliberately with due consideration and I mean to stick to it—I mean to say that after I did, and I think I did more to

do it than any other one man; Dr. Purvis used to admit that I did more to get Dr. Palmer there than probably any other man, after trying and exhausting on Purvis to get him appointed. I had my reasons for it, and they were simply that he was a colored man.

Q. Never mind about that.—A. They were good motives. I expressed them to him many times. After that we got Dr. Palmer there. I had a good opinion of him. I still have a rather good opinion of him; that he is a nice honest man, but not fit to keep a hotel, not fit to run a hospital. After that I did go to somebody in the Interior Department—if it was Gorham I do not know him, but I thought it was Assistant Secretary Bell.

By Mr. ALLISON:

Q. A nice, fine-looking man?—A. A splendid-looking gentleman; a nice gentleman; favors your honor somewhat.

Q. You think it was Bell?—A. I think so. I am not certain. I told him there was a sort of movement on foot with reference to Dr. Palmer, and that I hoped he would be retained. I did that at the instance of Dr. Purvis, who came to me and asked me to go down and see and do what I could to ward off that very matter.

By Mr. EATON:

Q. Wait. That was about a year ago?—A. No, sir. The Senator don't catch me so easy as that, because I have asked questions myself in courts of law.

Q. When was it?—A. I said I could not tell, but it was some time ago.

Q. You said you went and called on a man in the Interior Department. I asked you if it was about a year ago, and then you volunteer to say that you are not to be caught in that way. There is no catching here.—A. No, I do not mean that.

Q. Then do not use such expressions.—A. I do not mean to refer to you in that sort of way. I ask your pardon.

Q. I treat you properly, and demand proper treatment.—A. I ask your pardon so far as making any reference of an unfair nature.

Q. When was it? Was it last year, or more than a year ago?—A. Since I asked him to have him retained?

Q. Yes, sir.—A. I think it must have been as much as two years ago.

Q. How long has Bell been there, if it was Bell? Has he been there two years?—A. I am not certain that it was Bell. I think he has.

Q. Who was the Secretary of the Interior at this time, if you remember? I should like to identify the time if I can.—A. I will do my best for you. I think it was Mr. Chandler. I think he was there.

Q. Was he there two years ago?—A. O, certainly, sir. If this gentleman has not been appointed within the two years—I mean he was there as long ago as that. I think Mr. Chandler was there.

Q. Are you quite certain about that?—A. No, sir; that is my impression.

Q. Then I will drop it, because I only asked that question in order to identify the time if I could.—A. Yes, sir.

Q. You were anxious to retain Dr. Palmer?—A. I was, because I was anxious to have him appointed.

Q. Somebody was trying to get him out then?—A. There were some influences for that, so Dr. Purvis told me.

Q. I do not care how you arrived at the conclusion?—A. I thought I would tell that.

Q. Was the arrangement to get Dr. Reyburn back?—A. I think it was.

Q. You preferred Dr. Palmer to stay?—A. I think I did.

Q. Why?—A. Well, I had not any very particular reason at that time, except, I think, to accommodate Dr. Purvis. I had no particular reason, except that.

Q. Did you regard Dr. Palmer at that time—whenever it was that you went to the Interior Department and had this interview with the Assistant Secretary—as being as able and proper a man to be at the head of the institution as Dr. Reyburn?—A. I never considered him as able and as competent; no, sir.

Q. Then you desired a man who was not as competent, was not as able, was not as suitable, to remain there for some reason?—A. I did. I had a reason.

Q. What was the reason?—A. Well, sir, I am glad to give that. We had a good deal to do about the time Dr. Reyburn was there in the way of getting him out, because of his connection with the medical college, and his indisposition to grant certain privileges, as I understood, to the colored students, and that he had joined a medical society here that was at antipodes somewhat, at variance with our way of thinking. Dr. Palmer was supposed to be—was represented to be by Dr. Purvis—a man entirely in accord with the colored people and their interests in every respect. I was perfectly willing, being a colored man myself, and under those circumstances, to have him there, and I would forego a good many things with reference to doing homage to and following my convictions in that direction, the direction of being friendly, doing something to promote the best interests of the colored people, and I was willing to take a man that I thought was not so good, so fine an expert, or so practical an organizer and systematizer as Dr. Reyburn was, with better sentiments in my direction. I felt so.

By Mr. ALLISON:

Q. More in sympathy with the colored people?—A. Yes, sir; and that was all the reason. Dr. Purvis wanted me; Dr. Purvis and I were then good friends, and I wanted to do whatever he wished.

By Mr. EATON:

Q. In your opinion, what was Dr. Purvis's ability then as a physician?—I do not ask now.—A. As to then, I think just about the same as I do now. I think Dr. Purvis a good man, a young man inexperienced such as he is. I do not think Dr. Purvis's style and all that is the most pleasant, his bearing to friends or patients, or what not; I think it is austere, a sort of supercilious, and not pleasant. I wanted to help him, because he was a man of my color and complexion. I had just those feelings of doing what I could.

By Mr. ALLISON:

Q. Is Dr. Palmer still in sympathy with the colored people, in your general ideas in reference to the hospital?—A. I do not know whether he is or not. I suppose he is not very different from what he was.

Q. He has not changed?—A. Not that I know of.

By Mr. EATON:

Q. Is there anything else in particular that you would desire to state?—A. I did not know I would be questioned on any of these things; I came up to ask the privilege of making a personal statement.

Q. You have made it?—A. Yes, sir.

SATURDAY, *March* 9, 1878.

The subcommittee met at the room of the Committee on Appropriations.

Dr. A. T. AUGUSTA (colored), sworn and examined.

By Mr. SARGENT:

Question. Your name was given us as a person who could throw light upon matters connected with the Freedmen's Hospital. Make any statement that you desire to make in reference to it.—Answer. I am here entirely without my consent, and I did not want to have anything to do with this investigation. I have been connected with the hospital some time, it is true, but I prefer not to be mixed up with this investigation.

Q. You can make any statement of any facts within your knowledge, if you desire to do so. I do not know what you know.—A. I, of course, have some knowledge of the affairs of the hospital, having been connected with it from October, 1875, until June, 1877.

Q. You can make any statement that you wish to make about it.—A. There are some matters I know about that I do not care to state, and I prefer not to have anything to do with it.

Mr. EATON. You are here called upon as a witness, and to leave it in this position, stating that you know matters that you do not care about telling, would seem to imply that you know something against the management of the institution. You had better state your information.

The WITNESS. I have no fears of testifying, but it is only a question of propriety on my part, inasmuch as I had been an applicant for the position of surgeon in charge of the hospital, and did not wish to appear here as prosecuting the gentlemen already there who are being investigated. If the decision of the committee is that I shall go on, I will.

Q. (By Mr. SARGENT.) Go on and make your statement.—A. When I first became connected with the hospital, in 1875, I had orders to be at the hospital on Saturday morning for inspection, at eleven o'clock. I presented myself there at that hour, and went through the wards of the hospital with the other physicians and surgeons in charge; but I was struck with what I considered to be a perfect farce, as far as the inspection was concerned. The physicians walked right through the wards, without paying much attention to anything in them. It seemed to me to be a mere matter of form. Once in a while they would stop and examine a patient perhaps, and sometimes the water-closets or something like that; but so far as any minute inspection went, to see whether the hospital was really clean or dirty, it seemed te me to be a matter of farce; but, however, as I was connected with the hospital, and had orders to appear there for inspection, I always tried to be there at the hour designated. As far as the wards were concerned as to cleanliness, some of them were quite clean; others were not so clean. The odor of some of the wards especially, was very bad at all times when I have been there. There were three of them. I can recollect now especially, one of the female wards on the side attended by Dr. Palmer, and the two male wards, one I think attended by Dr. Purvis, and the other by Dr. Glennan. The odor and air of those wards was always bad, and I generally remarked it when I went through on inspection-day. There was something in those wards that was very disagreeable and bad; sometimes the ventilators were open, sometimes they were not. I suppose it does not make any difference to the committee

Q. You think you could have done it better than that?—A. I do not know that I should have done it that way at all. I think I should have tried to deliver the woman, who was lying in convulsions all the time.

Q. Was it a difficult case or an easy case?—A. It was a difficult case, but I did not think the woman deserved such treatment as that.

Q. What became of the woman; did she live?—A. No, sir; she died.

Q. How long after?—A. Some time that day or night, I think. This was between 12 and 1 o'clock when this took place.

Q. You proposed to tear the child to pieces and take it out?—A. Yes, sir; cut it up. That is the practice. Then, with regard to the out-patients I spoke of, near about the time that the fiscal year 1877 ran out, they were coming there to the hospital, averaging between two and three hundred prescriptions during the month for patients, and near the end of the month Dr. Palmer said he would have to stop prescribing for any more patients, that it was too expensive, or something to that amount. I said, "Have you not got the medicines?" "Yes, we have the medicines sufficient, but," he said, "there is no appropriation made for medical attendance." I said to him that I would give my services there, if he and Dr. Purvis would also give a portion of their time, so as not to turn off these poor people. No provision had been made by the District government here for treating those people, and there were only a few places, one or two dispensaries in town where they could get medicine, and I thought it would be a great hardship to them, inasmuch as there were many cases very bad coming there daily, especially people living in the neighborhood—I thought it was a hardship on them that they could not get medicines. Dr. Palmer said, "No; we will close it up, and we can with better grace, then, go to Congress and ask for an increased appropriation next time."

Q. Were you discharged from the hospital at that time?—A. No, sir; I had not been discharged then.

Q. How soon after did you leave the hospital?—A. About the 1st day of July.

Q. It was at that time then that you were discharged; or did you resign?—A. No, sir; the appropriation made last year, I believe, cut down the medical attendants, as I understood, to only two.

Q. For that reason you were discharged?—A. Yes, sir; I was dropped from the rolls in consequence of that.

Q. Did you have any feeling against Dr. Palmer and Dr. Purvis because of your discharge?—A. No, sir; I had no feeling against them personally.

Q. Did you think they could have kept you on?—A. I did not suppose so at that time, because I understood that the appropriation would not admit it. I asked Dr. Palmer when I went in on the morning of the second of the month, Sunday being the first—I attended as usual, as I had not been dismissed—on Monday morning when I went, I found that Dr. Glennan had been through my ward. I then spoke to Dr. Palmer about it, and he said, "There is no appropriation to pay you." I said, "Is there any to pay Dr. Glennan?" He said, "Dr. Glennan is going to take the second place." Said I, "Dr. Purvis informs me he is going to take that place." He said, "No, Dr. Purvis, if he stays here, will have to get his pay the best way he can." That was the end of it, and I left. I understand that subsequently to that, Dr. Purvis was kept on, and was paid out of some fund, I do not know what.

Q. Did you thereupon apply for the situation of surgeon-in-chief?—A. Yes, sir; I applied for the place of surgeon-in-chief. I thought that, as there was going to be a change there——

Q. Whom did you apply to?—A. To the Secretary of the Interior.

Q. Was anything said about a change then of Dr. Palmer?—A. No, sir. There was nothing said about a change.

Q. You wished to apply because you understood there was going to be a change?—A. I supposed there might be a change.

Q. To whom did you apply?—A. I applied to the Secretary.

Q. What was your information? That there was no vacancy?—A. No vacancy.

Q. Did you then go to work to try to make a vacancy?—A. Petitions were sent in in my favor.

Q. Whom did you get to circulate such petitions?—A. I circulated one of them myself, and some of my friends, I do not recollect who now.

Q. Did you get the wife of O. S. B. Wall to circulate a petition?—A. No, sir.

Q. Did you send a petition to her?—A. No, sir.

Q. You did not?—A. No, sir; some ladies got up a petition and interested Mrs. Wall, Mrs. Langston, and Mrs. Butler, and among the ladies they got up the petition, but I had nothing to do with it.

Q. Did you solicit Dr. Goerner to prefer charges against the institution?—A. I will tell you as far as Dr. Goerner is concerned——

Q. My question is, did you solicit him to prefer charges against the institution before your removal?—A. I did not directly. I might have done so indirectly. If you allow me, I will explain what I mean by "indirectly." Dr. Goerner stated to me that he wanted to get back in the institution. He came to my house and said that he thought we could manage it, and get into the hospital. I told him that I was working for myself. He said "Well, it's all right," but that he had also been trying to get in, and, I think, had written a letter to the Secretary, and I do not know whether the Secretary had answered it then or not. Anyhow, he seemed to have some encouragement that he would be taken back again. At any rate, he wanted me to go in with him, but I declined to do so. Subsequently to that he had a conversation with Captain Wall and several other persons, saying that he had information that he intended to put in the papers, and he told me that he was going to publish it in the paper called the Sunday Capital. However, I never saw that statement. I do not think it was ever made. I left town about that time, and just before I left Dr. Goerner wrote a letter to Captain Wall, giving certain statements against Dr. Palmer and the management of the hospital.

Q. He wanted to get Dr. Palmer's place?—A. No; I do not think he wanted to get Dr. Palmer's place. He wanted to get in the hospital again. He seemed to be in great distress.

Q. And you wanted to get Dr. Palmer's place?—A. I supposed I would have to get Dr. Palmer's place if I got in the hospital.

Q. Do you now hope this investigation will make a vacancy, so that you can get Dr. Palmer's place?—A. I made application for that very purpose—that if Dr. Palmer was removed, I should be appointed.

Q. And you now hope this investigation may be successful, in order that you may get the place?—A. I should like to have the place if the Secretary of the Interior should think proper to give me the appointment.

Q. Have you attended meetings at O. S. B. Wall's office, and at Calvert's house, in order to forward the investigation?—A. I have been there several times at *impromptu* meetings; met persons there and talked this matter over.

Q. What persons?—A. The gentleman sitting over there, Mr. McFarland, a gentleman named Adams——

Q. Mr. Wall?—A. Yes; Mr. Wall was there.

Q. Mr. Potter?—A. Potter, I think, was there on one or two occasions I recollect.

Q. Mr. Calvert?—A. I am not sure whether Mr. Calvert met us there or not.

Q. Did you meet at Calvert's house?—A. I have been at his house several times.

Q. On this business?—A. Yes, sir.

Q. Have you been taking rather an active part in forwarding the investigation?—A. I have had nothing to do with starting the investigation, because at the time the investigation was started I was absent from the city.

Q. But in forwarding it—making it successful?—A. Yes; I sympathized with it very strongly.

Q. Because you wanted to get the place?—A. I suppose quite as much that as anything else; I should like to have the place; but I have another reason. I should like to see a change made, whether I get it or not. I have expressed myself freely, and do so now. I did not think that the management was in sympathy with the people who were in there, and I thought a change ought to be made, whether I got it or not.

Q. Were you once professor of anatomy in the medical department of Howard University?—A. Yes, sir.

Q. Were you discharged from there?—A. I was not discharged.

Q. Did you resign?—A. I do not know whether you can call it a resignation or not. I will tell you the circumstances.

Q. Were your services dispensed with?—A. Yes, sir; my services were dispensed with, but in an irregular manner, I consider.

Q. Did you not blame Dr. Palmer for that, and feel rather sore over it?—A. Dr. Palmer and Dr. Purvis, I thought, engineered that matter, because I believe it was done thinking it would destroy any prospect I might have for being appointed surgeon in charge of the hospital, and I believe they acted against me in that respect, but this was long since. The investigation had commenced. It did not take place until some time in October; the first part of October or the last of September.

Q. If, as you say, you sympathized with those who have had these frequent meetings, with those persons who have met and caucused for the purpose of making it effectual, why did you say that you did not want to testify in this matter? Were you willing to do privately and underhand what you were unwilling to have appear on the record against you?—A. I will tell you why it was; because there was a good deal of one thing and another that had been said about the hospital—very disagreeable things that had been said—and I did not want to give my testimony.

Q. Did you keep your ward clean while you had charge there?—A. I tried to keep it clean.

Q. What ward was that?—A. I do not know what they call it now. It was the ward on the left-hand side of the buildings, facing towards Seventh street.

Q. Do you not remember the number?—A. No; I do not.

Q. Who was the nurse?—A. Chase was nurse in one ward, and a man named Hurd in the other.

Q. Were these two wards kept by Hurd and Chase, the nurses, clean

and in good order?—A. Measurably clean. I often spoke to them about it. I told them to keep them up to the mark.

Q. It was your duty to do that, was it?—A. It was my duty.

Q. And you attended to that duty?—A. Yes, sir.

Q. And you think they did it very well?—A. Yes; after I told them. That was one of the points I noticed in the inspection. After the inspection was over, I noticed a good deal of dirt upon different parts of the wards. I had had charge of hospitals; I was in the Army four years.

Q. It was your place to see that they kept them clean?—A. Yes, sir; certainly.

Q. And you did it?—A. Certainly.

Q. It was the place of Dr. Glennan, aside from inspection, to keep his clean?—A. I suppose so.

Q. And the place of Dr. Purvis, aside from inspection, to keep his clean?—A. I suppose so.

Q. And so of the other physicians?—A. Yes, sir.

Q. And you attended to that duty, and your ward was usually kept clean, was it?—A. Yes, sir.

Q. Did you see that the beds were kept clean, and the floors?—A. Yes; I spoke to them often about it.

Q. Were you kind in your attention to patients?—A. I tried to be as kind as I possibly could.

Q. You saw that they had whatever they needed?—A. Yes, sir.

Q. That is all.—A. I should like to state one thing in regard to a question you asked a while ago.

Q. You left there at what time in 1877?—A. The 2d of July was the last day I was there.

Q. Did you attend to this duty up to the time you left, as thoroughly as before, about keeping things clean in your wards?—A. Yes, sir; I did.

Q. So that up to the time you left in July there was no cause of complaint, as far as your two wards were concerned?—A. No, sir. Of course there were bad cases in those wards. Some of the men were very dirty, and it was difficult to keep them cleanly.

Q. They are a low class of patients, difficult to handle and keep clean?—A. Those in that ward especially, more so than in other wards.

Q. Is it not the custom of colored persons of the lower orders, we will say persons not accustomed, perhaps, to better things, to undervalue ventilation; and if you put up windows, to shut them down, and keep the air close, so that one of your duties was to see that the windows were opened frequently so as to keep up ventilation?—A. I have no doubt that is so in a great many cases.

Q. When you would go in and find the atmosphere bad, you would order the windows up?—A. Yes, sir; whenever I went in the ward I would smell this bad odor.

Q. You would go back and find the windows down, and order them up again, would you not?—A. Yes, sir. Now I will go on and state about Howard University if you wish.

Q. Certainly.—A. When I was acting as professor there, there was some disagreement about my teaching. On one occasion I was asked to change the position that I held, professor of anatomy, for that of materia medica, on the ground that I was too strict in some of my teachings and examinations. I was requested to take the chair of materia medica. I told a gentleman that I did not feel inclined to make a change of that kind; that I had been studying that branch and teaching it for a number of years; that I had begun to get rather old to take a new chair to teach,

and, therefore, I would prefer to remain where I was if I remained there; but in order not to embarrass the faculty, if they desired to make this change, I would leave the position I held at their disposal and they could get some one else to take the place and I would give it up, because, I said, for the same reason why I should change from anatomy to materia medica this year I might have to change from materia medica to some other chair next year.

Q. Was not the reason why they did not desire your services there because they did not consider you a good lecturer, able to explain your subjects; was not that the reason?—A. No, sir.

Q. Did you not take offense at that reason?—A. No, sir; I am coming to that if you will let me.

Q. Certainly; I only direct your attention to it.—A. I am coming to it. At this time I speak of there was no complaint about me that I did not properly teach; but there were some students who would not study anatomy, and I insisted that they should study anatomy as long as I was there. I did not think any man fit to go out to practice medicine and surgery unless he studied anatomy. I had been taught to study that branch thoroughly where I was taught, and I believed it my duty to all those whom I had to teach to teach them in the same way. There were some students, as there will be in almost all colleges, who did not like to study anatomy, and in this case there were quite a number, but there were others who were very diligent students, studied well, and are now in practice and good practitioners, I believe, from what I have heard from them, who studied anatomy and learned it there. These gentlemen declined to take my place when I offered it to them, and the matter dropped there. During last year the question came up again as to my being changed to materia medica from anatomy, and at the meeting in which the matter was brought up I asked the gentlemen what were the charges against me? They said they wanted to transfer me to another chair. I said, "What are your charges against me?" "Well," said Professor Purvis, "there are no charges against you particularly, but the matter has been talked over before. The students say your memory is defective; your articulation is bad," and another remark that I cannot think of just at this moment. I said, "I am willing to lecture here in the same position I have always lectured, but if I cannot do justice to the chair I have been lecturing in now for about eight years, I do not see that I could take a new place with only about three weeks' preparation and do justice to it; therefore I do not think it is just now to change me." I felt satisfied that the action against me was because at the time I had become an applicant for the position of surgeon in charge of the hospital; and it was for that reason that they asked me to change, knowing that I would not change. I had said I would not do so.

Q. You think injustice was done you in that matter by Dr. Palmer and Dr. Purvis, do you?—A. Yes, sir; but my application for surgeon in charge of the hospital was made since the 30th of June, or the first part of July, the 4th or 5th, and this took place in September. I have no doubt these gentlemen hurried this matter up and brought another reason.

Q. Do you think the students did not complain that your utterance was defective, and your memory not good?—A. I have no doubt there might have been two or three, but I have got evidence from plenty of them that that is incorrect. It is not so.

By Mr. ALLISON:

Q. Are you a practicing physician in this city?—A. I am. I was a

surgeon in the Army four years, and since I left the Army I have been practicing in the city, and between eight and nine years I have been connected with the medical department of Howard University, as demonstrator one session, and subsequent to that, professor of anatomy up to last September, and the reason why I stated just now. I cannot say I was dismissed. These gentlemen passed a resolution, the medical department requesting the executive committee to make the change. The board of trustees, meeting only at stated periods, when this special meeting was called, it seems the executive committee had to transact the matters. I entered a protest that day against the action of the medical faculty in my case, and wrote a letter to the executive committee, explaining why I did not think justice had been done me, and why I did not think I ought to be changed. However, after the meeting, and conversation with me, they concluded to confirm the action. I appealed from their action, to the board of trustees, and have not yet been able to lay my case before the board of trustees.

By Mr. SARGENT:

Q. How old are you?—A. I was 53 on the 6th day of this month.

Q. Where did you study medicine?—A. I commenced to study medicine in Philadelphia.

Q. At what school?—A. I did not attend any school there. They would not admit me to any school there, but I was a student of medicine under Professor Henry Gibbons, whom I presume you know something about, as you have been in California, and he was a gentleman practicing medicine in San Francisco.

Q. Did he have a school?—A. No, sir; he was professor in the Philadelphia College of Medicine.

Q. Did you ever study at any school or college?—A. Yes, sir.

Q. What one?—A. I studied at Trinity Medical College, Toronto, Canada West, and graduated there.

Q. When was that?—A. In the session of 1855-'56, I think. I practiced in Toronto subsequent to that; went to the West Indies, Port Au Prince, practiced there a short time, returned to Canada, and on my return I wrote to Mr. Stanton and President Lincoln asking for a commission in the Army. I was told to come to Washington here and be examined. I was examined by the board of examiners who at first refused to examine me, but were compelled to do so by a peremptory order from the Secretary of War that I must be examined.

Q. Were you born in Philadelphia?—A. No, sir; I was born in Norfolk, Virginia.

Q. What age were you when you went to Philadelphia?—A. I was about twenty-two.

Q. What time did you go to Canada?—A. I went to Canada in 1853. I studied medicine in Philadelphia, and finding that I could not get in college there, and had not the means to go to any other place, I went to California, worked there in the mines and at one thing and another until I accumulated enough means, and then came back and went to Canada and into college there.

Q. Where were you in California?—A. I was up at Nevada.

Q. Nevada City?—A. Nevada City they called it, I think.

Q. How long were you there?—A. Perhaps four or five months, perhaps not as long.

Q. Whom do you know in Nevada City?—A. I do not know anybody there now.

Q. Whom did you know then?—A. I do not know that I can recollect

any person I knew there. It was 1851 when I was there. I do not know that I can recollect any person who was there at that time. I subsequently came to Hangtown, otherwise called Placerville, and remained there a certain length of time, and knew several gentlemen there.

Q. Whom did you know there?—A. A Mr. Bee there; Mr. Springer, a gentleman who published a paper there. I knew several gentlemen there I have a letter somewhere home now from Mr. Springer, who I have since learned is dead.

By Mr. ALLISON:

Q. How long were you professor of anatomy in the medical department of Howard University?—A. From 1869 until 1877.

Q. Where are the rooms of the professor of anatomy?—A. I had three different rooms.

Q. Where is the dissecting done?—A. The dissecting was done in the upper part of the building.

Q. What building?—A. Above the floor where the lecture-room is.

Q. What building?—A. The brick building.

Q. What brick building?—A. The brick building where the medical-college lectures are held.

Q. Nowhere near the hospital?—A. Yes, sir, very near the hospital.

Q. How near?—A. I suppose about thirty feet.

Q. Is it in the brick building where the office is?—A. Yes, sir, at the top of that building.

Q. Did you have an assistant professor?—A. No, sir.

Q. The dissecting-rooms are on the upper floor of the building adjacent to the hospital?—A. Yes, sir.

Q. How large are those rooms?—A. They differ. Some of them are from about twelve to twenty feet, I should judge.

Q. Had you charge of them as professor?—A. No, sir; the demonstrators of anatomy had charge of those rooms.

Q. Was he not under your guidance?—A. Only to a certain extent. They seemed to differ in that college in regard to these matters from other colleges I have attended. They do not seem to think that the professor of anatomy should have anything to do with overseeing anything of the demonstrator of anatomy.

Q. Who was the demonstrator of anatomy?—A. We had several while I was there; Dr. Borland was the last one there.

Q. As professor of anatomy, you had general charge of the dissecting-room, of course?—A. No.

Q. Did you never appear in the dissecting-room?—A. I used to go up and inspect them and look after them at times.

Q. Was there always great care taken that everything was done in decency and order relative to the management of those bodies furnished for dissection? Was there are any trouble about that in any way that you ever noticed?—A. There was not much. Sometimes the offal would accumulate in the room, and I would find it necessary to go out to the man who cleaned it up, or to send for him.

Q. Sometimes students would be careless, you mean?—A. Yes, sir.

Q. But whenever any such thing appeared you always took care to cure the evil and correct the difficulty, whatever there was?—A. Yes, sir.

By Mr. SARGENT:

Q. What did you use to have done with the offal?—A. I did not have anything done with it. There was a man there by the name of Banks, whom Dr. Palmer designated to clean up things.

Q. That was his duty, and not yours?—A. Not mine. I never knew what he did with it. I understand he buried the bodies, but did not know where.

Q. That you know nothing about?—A. No.

SIDNEY MCFARLAND (colored) sworn and examined.

By Mr. SARGENT:

Q. Your name has been given to us by those who promote this investigation as one who is able to tell of your own knowledge some matters with reference to the Freedmen's Hospital. Are you able to do so? Do you know anything about it of your own knowledge?—A. I do not know anything about the inner workings of the institution to my personal knowledge.

Q. What is your business?—A. I am an employé of the United States jail.

Q. Are you connected with the hospital in any way?—A. No, sir.

Q. Or with Howard University?—A. No, sir.

Q. Have you ever been?—A. No, sir.

Q. You know nothing about it of your own knowledge?—A. Not of the inner workings of it. I only know about the same as Mr. Crusoe knows about it.

Q. What do you mean?—A. I mean to say that he was not connected there with the institution, nor me either. He was a friend of Dr. Purvis, and I am a friend of O. S. B. Wall, who is said to have instituted this investigation. His statement was to the effect that O. S. B. Wall instituted this investigation. I am here to say that he did not.

Q. Do you know who did?—A. Yes, sir.

Q. How do you know it?—A. Well, sir, I know it because it was shown to me before it was shown to the Secretary of the Interior.

Q. By whom?—A. Robert Johnson.

Q. Do you know whether it was shown to Mr. Wall or not?—A. Yes, sir.

Q. How do you know?—A. I went in with Robert Johnson and showed it to him.

Q. That was before it was shown to the Secretary of the Interior?—A. Yes, sir.

Q. I understood Mr. Wall to say he did not know anything about it until after the investigation was commenced; I may be mistaken, but his testimony, of course, is in the record. You think, if he so testified, that his recollection is not so good as yours in the matter?—A. I called his attention to it in time.

Q. Whom else was it shown to?—A. There was another gentleman in there; I cannot call his name.

Q. Was he one of the patients?—A. No, sir; a gentleman who happened to be in the office at the time.

Q. Was he consulted in reference to it, or did he only happen to be there?—A. He happened to be there. He was consulted the same as Mr. Wall and myself.

Q. What is the business of that person?—A. I do not know. I think he is a carpenter.

By Mr. ALLISON:

Q. What is his name?—A. I do not know what his name is. He happened just to be in there at the time and he sympathized with it, as we all did.

Q. Why did you sympathize with it?—A. I sympathized with it be-

cause I understood that there was some ill-treatment of the colored patients by Dr. Purvis, and I wanted to know whether this was true. That is all. That is the interest I have taken in it. I have only taken this interest all the way through when the committee was appointed.

By Mr. SARGENT:

Q. Did Mr. Wall also take an interest in it all along?—A. Yes, sir; I believe he has taken the same interest in it I did precisely.

Q. You are a friend of Mr. Wall, and speak of your own knowledge in reference to these things?—A. Yes, sir. I want to speak, because it has been stated here that O. S. B. Wall was the originator of the investigation; that he was running it for self-interest and self-purposes.

By Mr. ALLISON:

Q. And you know that is not so?—A. I know it is not so.

By Mr. SARGENT:

Q. You know that because the charges were shown to you and him, and you and he were consulted before they were shown to the Secretary of the Interior?—A. Yes, sir.

Q. You know nothing of the affairs of the hospital?—A. I do not know anything about the affairs of the institution.

By Mr. ALLISON:

Q. How long have you known Robert Johnson?—A. I knew him for about seven or eight years.

Q. Where did he show you these charges?—A. He was on his way going to the Secretary of the Interior at the time.

Q. Where were you?—A. I was standing in the middle of the street.

Q. Did he call you?—A. Yes, sir.

Q. What did he say to you?—A. He had been making some complaints about Dr. Purvis's treatment to me before that, and some few days before that said he was almost afraid to stay there on some political reasons; that Dr. Purvis had stated to him, "I have got you now," or "I will fix you," and I told him that I guessed that did not amount to anything; he was only funning with him. Then he said to me the next time he saw me—he saw me twice before the charges——

Q. I do not care about going into those times. You were in the street, and he called you and pulled out these charges and exhibited them to you?—A. Yes, sir.

Q. Do you remember about where that was?—A. It was on Seventh street, a few doors the other side of the boundary.

Q. Was that near Wall's place?—A. Yes, sir.

Q. Was Wall with you?—A. No, sir.

Q. How do you know he showed them to Wall?—A. I went there to the door with him.

Q. Then you and he went together to Wall's place?—A. Yes, sir. I asked him if he could have these charges sustained, and he said he could.

Q. Then did you say, "Let us go and see Wall," or did he say it?—A. I said, "Let me go and show these to Wall," and then he read them himself.

Q. To Wall?—A. Yes, sir.

Q. What did Wall say?—A. Wall said, "Well, those are pretty bad; do you think he can sustain them?" He said, "Yes, and more, too."

Q. You do not know whether or not that was the first time that John-

son had seen Wall, do you?—A. I do not know of my own personal knowledge; no, sir.

Q. He may have seen Wall before?—A. He may have seen him, but if he had he would have been likely to tell me.

Q. You know Wall?—A. Yes, sir.

Q. And he knew Wall, of course?—A. Yes, sir; I think he did.

Q. You do not know but that he may have seen Wall before, do you?—A. It might be likely he might have seen him before; but it is likely he would have told me if he had, because I called his attention when he read them over to me in the street. I said, "Let us go and see if Wall is in, and let us show them to him." He said he had to be down to the Secretary at such a time.

Q. Why did you suggest Wall?—A. Wall was a particular friend of mine and I wanted to see what he would say about them, if he would say anything about them. I wanted to show what charges Johnson preferred that he said he could sustain.

Q. You and Wall had never had any conversation about this hospital before?—A. We have had conversation about the hospital. I spoke to him once about the treatment there, and asked him if it was true that Dr. Purvis was treating the people in there that way.

Q. What did he say to that?—A. He said he did not know. He had heard so himself.

Q. Then you had talked with Wall before about these things?—A. Yes, sir; I talked with Wall and talked to a number of other people about them.

By Mr. EATON:

Q. You had talked to Wall before you had the interview with Johnson?—A. In regard to these charges do you mean?

By Mr. ALLISON:

Q. In regard to the hospital?—A. That was a frequent talk, not in connection with this, for I never knew there were any charges coming up.

Q. I did not ask you about charges. I asked if you talked with Wall about the hospital before you had this talk with Johnson?—A. O, yes, sir; for a couple of years.

Q. Were these complaints so old as that?—A. Yes, sir.

By Mr. EATON:

Q. Two years before that time?—A. Yes, sir.

Q. That is three years ago nearly.

Mr. ALLISON. Two years before August last.

Mr. EATON. Three years next summer.

By Mr. ALLISON:

Q. And you say you had talked to Wall. What did he say to you on those occasions?—A. He said he had heard the same himself, that people there had been treated rather inhuman.

Q. That is as long ago as two years since and more?—A. Between one and two years. I will say two years ago.

Q. Then you thought Wall would be interested, perhaps, in looking over these charges. That I suppose is the reason you suggested to Johnson to go and show them to him?—A. I thought any colored people ought to be interested in it when it came against colored men who were in there.

Q. And therefore you thought Wall would be?—A. Yes, sir.

By Mr. SARGENT:

Q. Is Dr. Purvis a colored man?—A. Yes, sir; I guess he is. He ought to be.

Q. Are you a friend of Dr. Purvis?—A. Yes, sir; I am.

Q. A friend of every colored man?—A. Every respectable colored man I am a friend of, in general.

By Mr. ALLISON:

Q. Are you a friend of Robert Johnson?—A. No, sir; I do not know that I am a friend of him in particular. I know him well.

By Mr. SARGENT:

Q. Why are you not a friend of his?—A. Well, I can say that I am a friend to him, too.

Q. Are you, or are you not?—A. Yes, sir; I am a friend of his.

Q. Do you consider him a respectable colored man—a good man?—A. Yes, sir; by his recommendations. I am not much acquainted with him, but I know he has got recommendations. He has good recommendations from Governor Shepherd, for instance.

Q. Does Governor Shepherd think him a good man?—A. According to his letter of recommendation.

Q. What was the date of that recommendation?—A. It has been two or three years old; I did not look at the date of it. I was looking at his letters when he was going to the Secretary.

Q. They recommended him as a respectable, good man?—A. Yes, sir.

Q. What is your own knowledge of him?—A. I have not seen anything——

Q. Do you know of his being arrested for keeping a house of ill-fame?—A. No, sir.

Q. You never heard of that?—A. I read in the paper the name of Robert Johnson; I did not know whether it was him or not. I have heard since it was him.

Q. Is that respectable?—A. Well, not for keeping a house of ill-fame. I believe he was arrested in a house of ill-fame.

Q. Is that respectable?—A. No, sir; it is not respectable, but there are very many who get arrested there.

Q. Do you know anything of his being arrested on the charge of receiving stolen goods?—A. I have heard of that.

Q. Is that respectable?—A. If a man received stolen goods, or stole them and was convicted, I should say it was disrespectful, but we have a great many arrested and kept in jail there like Senator Sawyer, and a number of others, who turn out not to be guilty.

By Mr. EATON:

Q. You make this distinction: he was unfortunate in being charged, and if he was convicted it would be disreputable?—A. That is what I meant to get at.

By Mr. ALLISON:

Q. If he was an innocent man, of course it ought not to injure him?—A. That is what I think. I think he must have been innocent, or he would certainly have been convicted.

By Mr. SARGENT:

Q. Do you think that is certain? The detective swore before us that the goods were found in his possession and identified.—A. Then it is singular they did not convict him.

Q. Without saying whether they convicted him or not, I want to know whether you are acquainted with the character of the man.—A. I am not acquainted with him particularly.

By Mr. EATON:

Q. You spoke about, after having an interview with Mr. Robert Johnson, having gone to see Captain Wall; did you have interviews also with Calvert, the engineer?—A. Yes, sir; I have had since that time.

Q. Where were those interviews?—A. One was at his house; one was at my house, and one was at——

Q. Somewhere else; I am not particular as to the place. Did you not have more than three interviews with reference to the investigation?—A. You speak of Calvert. That is all I have had with him.

Q. Did they have reference to the business of the previous investigation?—A. Yes, sir; talking over that matter.

Q. In respect to the charges that Johnson made?—A. Yes, sir.

Q. Who were with you at the times, the three occasions you saw Calvert? Take the first time.—A. The first time Mr. Wall, Mr. Adams, and, I think, Dr. Augusta.

Q. Was Johnson present?—A. No, sir.

Q. Who at the second interview or meeting?—A. Calvert first, and the time that they removed this Potter from the hospital, he was there to get a place to sleep, and Mr. Adams, I think, was there. That was the second one.

Q. Anybody else but yourself, Calvert, Adams, and Potter?—A. No.

Q. Who were present at the third interview?—A. At the third Mr. Calvert, Potter, O. S. B. Wall, Adams, and another strange gentleman, I do not know his name.

Q. Those were the interviews that you had when Calvert was present. Did you have various other interviews in which this matter was discussed when Captain Wall and Dr. Augusta were present, when Calvert was not there?—A. Yes, sir; it was the day going up to see the Secretary we had the interview.

RODMAN BANES sworn and examined.

By Mr. SARGENT:

Q. Where do you reside?—A. I live at Claysville, Montgomery County, Maryland, near the post-town of Colesville.

Q. Were you ever an inmate of the Freedman's Hospital?—A. Yes, sir.

Q. From what time to what time?—A. From the 21st of last August until about the middle of October, as near as I can remember. I cannot remember as to the date I left exactly.

Q. Were you there sick?—A. Yes, sir.

Q. What was the matter with you?—A. I had the chills and fever, contracted nearly two years previous. Dr. Purvis told me that I had the intermittent fever. I presume so. I do not know myself of my own knowledge.

Q. You were pretty sick?—A. Yes, sir.

Q. What ward were you in?—A. Number 2.

Q. That was the one in which Felton is, I believe?—A. Yes, sir.

Q. What was the condition of the ward as to cleanliness?—A. It was good, under the circumstances.

Q. What was the condition of the floors, the bedding, &c.?—A. Clean.

Q. What was the treatment of the patients by Dr. Purvis, kindly or otherwise?—A. I think kindly, always. I never saw anything else but

kindness toward them. In many cases I thought there was more kindness shown than some of the patients really deserved.

Q. Why so?—A. From the fact that they did not appreciate the kindness that was extended to them.

Q. How would they show a want of appreciation of it?—A. They signified as much as he did not give them what they wanted in the way of food. I heard one of them on one occasion complain that he did not get the kind of medicine that he wanted, he himself, not Doctor Purvis, but he himself wanted a certain kind of medicine and that Doctor Purvis would not furnish it to him.

Q. The doctor prescribed for him the medicine that he thought was necessary for him, did he?—A. Yes, sir.

Q. And he got what the doctor prescribed?—A. Yes, sir.

Q. He did not complain that he did not get the medicine that the doctor prescribed for him?—A. O, no.

Q. You say that some of them complained that they did not have the food that was proper for them?—A. The food that they wanted.

Q. What food did they get?—A. Such as the doctor ordered for them. It was what I got myself, the same as other patients got.

Q. Was it good food that you got?—A. Yes, sir.

Q. Was it well cooked?—A. Yes, sir.

Q. And clean?—A. Clean.

Q. Did you have enough?—A. Plenty. If there was not enough came on the plate when it was first handed to me, I had only to ask for more and it was always given me.

Q. Were the other patients treated in the same way?—A. I think so. I never saw anything to the contrary.

Q. Have you known other patients to ask for more and receive it?—A. Yes, sir.

Q. Did you on any occasion examine some fish or meat after Mr. Felton said it was spoiled?—A. Yes, sir.

Q. Just relate how that was?—A. We had boiled mackerel for breakfast. I remarked to a patient lying within two beds of me that those were good mackerel, and he replied they were very good. While we were in conversation upon the subject, I heard Felton say to Sanders, the nurse, that he could not eat stinking fish; that these fish were not fit to eat; they were rotten. I immediately got up from the table where I was sitting eating my breakfast, and took my own fork and went to the plate that was held by Lucius, the chief nurse, and I asked him if that was the fish that Felton had had. He said yes. I took my own fork that I had been eating with and tasted it, and it was as good as the fish that I ate for my breakfast. It was good enough, I considered for anybody.

Q. Was Mr. Felton accustomed to complain?—A. Yes, sir; he was about the only person that made any complaint of treatment of any kind in the ward during my stay there as a patient.

Q. Were you there during the time that the committee from the Interior Department was investigating?—A. I think I was there when they commenced the investigation. If my memory serves me right, I went away before I was called to give my testimony before that committee.

Q. Who managed, while you were there, the investigation before that committee against Dr. Palmer?—A. Mr. Felton.

Q. What was his method of doing it, so far as the witnesses were concerned?—A. In the capacity of a lawyer.

Q. When the committee were not there, what was his course in reference to the persons?—A. He was endeavoring to ascertain the names

of persons who would testify against the hospital and its government, and finding out what he could get persons to say as evidence against Dr. Palmer and the general management of the hospital.

Q. Would he take what they would say with reference to it, or would he inform them about it?—A. He would sometimes. On one or two occasions he put his own construction for them to say. Upon one occasion particularly, that I wish to mention, he said to Henry Sanders, the nurse in ward No. 2, to tell Henry, the chief nurse in the lower ward, No. 1, Dr. Glennan's ward, that if he did not go before that committee and testify that them fish was not good he would have him turned out of employment.

Q. Did Mr. Felton use any profane language in your presence?—A. I have heard him use profane language.

Q. To whom?—A. To a man by the name of Potter.

Q. On what occasion was that?—A. That was while I was a patient in the hospital; I think it was some time before the previous investigation commenced. It was a matter, as near as I can remember, I suppose it might be considered political; Potter being an Englishman and he an American, they differed upon a subject of revenue in regard to the two governments, and they came to high words.

Q. Did any blows pass between them?—A. No, sir; there were no blows passed, but Felton raised his cane, his iron cane that he uses, and was about to strike Potter, but did not do it.

Q. Why did he not do it?—A. I do not know why he did not do it. I am not prepared to say. I was lying in my bed, and happened accidentally to see it.

Q. What did Potter do or say?—A. Potter talked, but what he said now I am not able to remember. He told him not to strike him, though, I remember that; that he had better not do it, or words to that effect.

Q. Do you remember any other occasion of his using profane language?—A. No, sir; I do not know that I do. He sometimes was rough in some of his expressions, but it was not noticeable on my part.

Q. Did you at any time have a conversation with Calvert about the plumbing of the water-closets?—A. Yes, sir.

Q. Where was that, and what was it?—A. That was in the boiler-house. He told me that the doctors had reduced his salary, and that he had agreed when he made his contract with the doctors, or with whoever it was that he did make the contract with (I am not able to say who that was now, for my memory does not serve me), that he was to have $90 a month, and he was to attend to the boilers and the engine and pumping, whatever it may be termed, and he was to do the plumbing; that the doctors had reduced his wages, and he was not going to do the plumbing. Hence the bad condition of the water-closets at the time of which Mr. Felton gives his testimony before you a few days ago of their being so filthy.

Q. Calvert let them get out of order?—A. Yes, sir; Calvert let them get out of order. He said he would not attend to the steam arrangements and do the plumbing both on his reduced wages.

Q. Did he speak particularly about the water-closets?—A. Yes, sir.

Q. That is all.—A. I would like to make a statement in regard to evidence I saw published in the Star of the day before yesterday, in regard to a matter of Dr. Purvis and Dr. Palmer being given to cursing. I wish to say that I have known Dr. Purvis since he was a little boy and wore aprons, and I have yet for the first time to ever hear a bad word out of his mouth. I have never heard a bad word out of Dr. Palmer's mouth, and my acquaintance with him has been from the time I first was taken as a patient to the hospital up to the present time.

COLLINS CRUSOR (colored) recalled.

By Mr. SARGENT:

Question. Do you know O. S. B. Wall?—Answer. Yes, sir.

Q. Mr. Wall, in his testimony, refers to you, stating that you came to him on behalf of Dr. Purvis, and said you were authorized to say to him, and would bring to him in writing, anything that was necessary to induce him not to proceed against Purvis. Did you have such conversation with him?—A. I most positively state here under oath that I have never stated to O. S. B. Wall that Dr. Purvis ever authorized me, under any conditions whatever, to make any overtures to O. S. B. Wall to stop the investigation.

Q. Did Dr. Purvis make any such overtures?—A. None at all to me.

Q. And you made no such representations to Wall?—A. No, sir; I never breathed Dr. Purvis's name to him in relation to any overtures whatever.

Q. What did you say to him about Dr. Purvis, if anything?—A. I was chairman of a club that Dr. Purvis, Professor Langston, O. S. B. Wall, Charles H. Peters, and myself and several others belong to. During this investigation, or just about the time of entering upon the investigation, I felt it my duty to see Wall and to see Dr. Purvis to see if we could not harmonize the matter by some means or other. I went to Wall and said to him that I would like to have this matter settled; that I thought it was a piece of persecution on his part; and that with others I was satisfied there was no truth in what he and others had stated concerning Dr. Purvis's figure in the hospital in the discharge of his duties, &c. I said to him, "For God's sake, stop this thing and let us see if we cannot harmonize it, if it is patronage you are after." I have no doubt I might have said, "I am satisfied you can get it"; but as for using Dr. Purvis's name, or saying to him that Dr. Purvis or Dr. Palmer had authorized me in any shape or form to make any overtures, I most positively swear I never used such words to O. S. B. Wall.

Q. Did Wall say anything to you as to his intentions about the hospital?—A. Yes, sir; he stated to me that he intended to rout out Dr. Palmer if possible. The language he used was "the old Yankee scoundrel."

Q. What reason did he give?—A. He gave me the reason that he had worked to get out Dr. Reyburn and worked to get Dr. Palmer in there, and Dr. Palmer failed to give him the patronage, and he was dissatisfied with Dr. Palmer because he did this. He said that he gave him the milk, that it was a mere matter of nothing, and that he had taken it from him, and he intended to do all he could to get Dr. Palmer out of there.

I will further state, if the committee will suffer me, that I saw Mr. O. S. B. Wall and said to him, in relation to Dr. Augusta, that he was never very favorably impressed with Dr. Augusta, and I did not see why he had recommended him for the position that Dr. Palmer has as chief of the hospital. He said to me, "Mr. Crusor, I have only put him up as a figure-head to start this thing with." "Well," said I, "Mr. Wall, that is a very wrong way, I think, of treating Dr. Augusta in that light. However, it does not matter," said I; "I think if anybody is entitled to the office, and Dr. Palmer should get out of the way, Dr. Purvis ought to have it, from the fact of his having been in the place for some eight or ten years or more." I said no more to O. S. B. Wall in relation to the matter either *pro* or *con*.

I would further state, if the committee would suffer me, that Mr.

Sidney McFarland, who was a few days ago before this committee, came to me at the jail and requested me, and insisted upon me seeing Dr. Purvis, to see if he would meet Mr. Wall, myself, him, and one or two others, to try, if possible, to harmonize this matter. I told Mr. McFarland that I was glad to hear they were willing to try to settle this thing, and I wanted to know from him whether he had seen O. S. B. Wall, and whether Mr. Wall had requested him to come to me to see Dr. Purvis to get him to meet him. He said he had just left Mr. O. S. B. Wall's, and such was the fact; that he had authorized him so to say. I said, "Mr. McFarland, you have been holding many caucuses at different places. This thing looks to me as if a conspiracy." "Yes," said he; "we have been holding a good many meetings, and we had a man at the head of this matter" (who was Dr. Augusta) "who was not liberal enough in spending his money;" and he added that he had got tired of this thing, and he found there was nothing in it, and had given the thing entirely up and would let it fall through.

I went to Dr. Purvis according to his request. I said to Dr. Purvis, "Mr. McFarland has come to me to ask you to meet Mr. Wall and try and harmonize this matter if we possibly can." Said he, "Sir, I would not meet that scoundrel on no conditions, unless he would go to the Secretary of the Interior and take back the falsehoods he has stated there against this hospital." Said I, "Doctor, that is a very hard thing for you to ask. I reckon he would hardly do that, but I judge Wall will do almost anything else save that, and he would like to have the matter harmonized if possible." Said he, "Crusor, he is a rascal, and you will find him out before long." I left Dr. Purvis, and have had nothing to say concerning the hospital since then.

That is all I have to say. Any other questions you desire to propound to me that I can think over, I shall be glad to answer. There are other matters on the outside of that connected with the Children's Hospital, that Mrs. Heacock has charge of, that Mr. Wall said something to me about.

Q. Did he say anything in reference to the patronage of that other hospital?—A. Yes, sir.

Q. What did he say?—A. He said he called on Mrs. Heacock to consult her about the milk; that they had taken it away from him and given it to his brother; Al. Wall, I think his name is. I am not acquainted with the gentleman. He said that they had taken it away without any cause whatever, and he intended to be even with that hospital, to use his best efforts to break that hospital up, because they had simply taken the milk from him. Said I, "Wall, that is a pretty heavy thing you have on hand, fights all around the carpet." "I don't care," said he; "I am going into it; I am going to fight this thing out. These Yankee scoundrels shall not have the patronage down here to do as they please with." I have not met Mr. Wall since.

Q. Do you know the date of the conversation wherein he said he intended to get Dr. Palmer out?—A. I cannot recollect the date.

Q. Can you recollect the date in reference to the investigation carried on by the Interior Department?—A. I cannot, because I took no notice. I had no idea I would be called in question concerning it.

Q. You cannot tell whether it was in August or September last?—A. I cannot. I ought to state here, gentlemen, that I never held five minutes' conversation nor one moment's conversation with Dr. Palmer concerning the investigation, either *pro* or *con*, nor have I ever called the name of Mr. Wall to Dr. Palmer or Dr. Palmer to him. I have simply had an introduction to Dr. Palmer; that is about all.

GEORGE CHAPMAN (colored) recalled.

By Mr. SARGENT:

Question. You are the steward of the Freedmen's Hospital?—Answer.—Yes, sir.

Q. Something has been said here in reference to affidavits prepared by Mr. Felton, and sworn to by witnesses. Was such an affidavit prepared for you?—A. Yes, sir.

Q. Was the affidavit written out in your presence, or prepared for you to sign?—A. It was written out in my absence and brought to me to sign.

Q. Did you sign it or decline to sign it?—A. I declined.

Q. Had he consulted you as to what you knew before writing out that affidavit?—A. No, sir.

Q. Why did you decline?—A. The reason why I declined was because when I happened to go in the ward where he was, and Mr. Robert Johnson showed me the affidavit that he wanted me to swear to, there were some things in it that I did not care to have anything to do with. In fact, I did not know the nature of the affidavit any way. He wanted me to swear to it and I told him I could not swear to those things.

Q. They were things you did not know to be true?—A. No; I did not know anything about them.

Q. Was it Johnson or Felton?—A. Robert Johnson.

Q. Who prepared the affidavit? Do you know?—A. I do not know who prepared it, but Johnson was the one that presented it to me.

Q. You did not know whether it was prepared by Felton or not?—A. I did not.

Q. Did you have any talk with Dr. Augusta in reference to going before the committee as a witness?—A. No, sir.

Q. At any time?—A. I did not have any talk directly with him about that. He spoke to me once and said that he expected they would want me down before the committee. That was the time that the first investigation was going on, and he said if I was called down there he would stand by me while I was there. That was all the conversation.

Q. What did you understand him to mean by saying that he would stand by you while you were there?—A. I hardly knew what he meant by that, but he said he expected they would call me before the committee, and if they did so he would stand by me while I was there.

Q. Were you afraid to go?—A. O, no, sir.

Q. Did you need any assurance of being supported while there?—A. No, sir; I do not think I did.

Q. Did you have any fear of losing your place if you went there?—A. No, sir. I never entertained any fear of that since the investigation has been going on.

Q. You have stated what you thought to be true without reference to how it might affect you?—A. Yes, sir.

Q. Did Captain Wall say anything to you of that nature?—A. 'Squire Wall has talked with me about it. I live pretty close to him, and I would sometimes meet him, and we would talk sometimes in reference to the investigation, but I do not think he said anything directly to me about it.

Q. Did Potter say anything to you, or in your presence, with reference to anything that would stop the investigation?—A. He did once, when the investigation first commenced; he came into the commissary where I was, and said he thought Dr. Palmer, and among them were

mighty big blockheads, that they did not offer some sum—he did not say any particular sum—of money to get Mr. Riddle to go to Felton and offer something to him.

GEORGE GRAY (colored), recalled.

By Mr. SARGENT:

Question. Do you know anything about affidavits being prepared to be signed by persons in the hospital to be submitted to the Interior Department?—Answer. No, sir; no more than what I have heard.

Q. Do you know of an affidavit being prepared for yourself?—A. No, sir.

Q. There was no affidavit prepared for you?—A. Well, I suppose there was one prepared when the investigation first commenced. When they summoned me to go before the committee at the hospital, I heard that and went to see Mr. Felton, and he read that to me, and I told him that I would not answer in that way.

By Mr. EATON:

Q. He read what to you?—A. An affidavit that he had prepared; and I refused to answer that way.

By Mr. SARGENT:

Q. Why did you refuse to swear to the contents of it?—A. Because he had it fixed up in a way that I did not know anything about it, and I told him I would not swear to anything I did not know about.

WILLIAM H. HOOVER, recalled.

By Mr. SARGENT:

Question. When Mr. O. S. B. Wall was on the stand the other day, his attention was directed to a question, whether he had had a conversation with you at the Interior Department, in which something was said with reference to the patronage of the Freedmen's Hospital. Did any such conversation take place?—Answer. Yes, sir.

Q. What was that conversation?—A. I met 'Squire Wall in the halls of the Interior Department as I was going to draw my monthly pay, and he said, "Hoover, are you still furnishing meat to the hospital?" I said, "Yes." He said, "It will be soon time to make a new contract, and I wish you to come and see me before that time." I asked him was he the superintendent of the hospital. He said no; but that he had worked hard to get Dr. Reyburn removed, and Dr. Palmer put in his place, and he expected to derive his pay for his trouble from the patronage of the hospital. I told him I did not think Dr. Palmer was that kind of a man. I said also that I was furnishing the meat so low that there was no chance for any dividing about it. He said he could add a cent or so a pound to that. I told him I would not consent to anything of the kind; that I would see Dr. Palmer; and then he begged me not to say anything to Dr. Palmer about it. I told him I was not going to place myself in the hands of any colored man as my owner; I never owned a colored man in my life, and I would not own one, or suffer one to own me.

Q. Where was that conversation?—A. In the hall of the Interior Department, right outside Dr. Joseph's office. I think the office is on the second floor, and this was in the hall. I think he was going to get his pay at the same time, and I happened to meet him.

Q. When did that conversation take place?—A. About two years ago.

Q. Do you furnish meat to any other institutions than the Freedmen's Hospital?—A. Yes, sir.

Q. What ones?—A. I furnish the Reform School with their meat; I have furnished the Reform School for two years.

Q. Do you furnish that school the same kind of meat that you do to the Freedmen's Hospital?—A. I do; if anything, the meat that goes to the Freedmen's Hospital is of a little better quality, because the boys at the Reform School complain about fat meat. They like the fleshier pieces. I furnish to the Freedmen's Hospital, and have for the last five years, better meat than the Army has ever received. I am furnishing at present the United States Army and the officers of the Army.

Q. Do you do that under contract?—A. Yes, sir.

Q. Do you do a large trade?—A. Yes, sir.

CHARLES H. PETERS (colored) sworn and examined.

By Mr. SARGENT:

Question. Where do you reside?—Answer. In Washington.

Q. What is your business?—A. I am a guard at the United States jail.

Q. Do you know O. S. B. Wall?—A. I do.

Q. Have you ever had any conversation with Mr. Wall in reference to the control of the patronage of the Freedmen's Hospital?—A. Yes, sir; once.

Q. What was that conversation?—A. I think it was about the 4th or 5th of January. I think it was after the committee appointed by the Secretary of the Interior had investigated the hospital and they had reported in its favor and acquitted the officers of all the charges against them. I thought it was so, but I did not say so to Mr. Wall. I was interested in one case and I wanted to have it made correct. I had some knowledge of it. Dr. Purvis and Wall were friends; we were all friends, and I had understood from Wall's brother that the captain had been after him stating that Purvis had done all he could to work against him in an appointment, which I knew was false, and I wanted to correct that statement. I called at Captain Wall's office and I stated to him, "You are misinformed about that; it is not so; the doctor did nothing to prevent your brother from getting this position; I know he did not, and I can tell you who did work against him." That led on to the investigation. I had never said anything of it before, because I did not know anything about the outside or inside workings of the institution. We were friends, and I did not care to mix up with it. Said I, "What is the matter, anyhow, Cap.? you have been friends; I hate to see friends quarreling." He said he had been badly treated; he had worked hard, and they had lost their man. He thought his services were entitled to consideration, anyhow; that he had had some patronage, but that Palmer had pressed him down, and finally had taken it away from him. Said I, "I have heard something about it; but, Cap., I heard that you were charging fabulous and extraordinary prices for your goods, and then they were inferior. If that be the case I cannot blame him." I heard they wrote a letter to him. "Well," said he, "they have written me a letter; I will tell you what I did, Charley; I would take my wagon and go down to the commissioner's and buy potatoes and things as cheap as I could; I had to make a profit on them; but he screwed me down to the lowest notch, and then said the goods

were not good, &c., and," said he, "I know they were as good as any he had bought in the place." "Well," said I, "the doctor has nothing to do with that; what are you after the doctor for?" "Well," said he, "I am not after Charley; I am after Palmer; if Charley gets in the way he must receive the knocks."

By Mr. EATON:

Q. Who is Charley?—A. Dr. Purvis. "But," said I, "you seem to be after the doctor as much as Palmer from what I understand." "No," said he, "I am not after him, but if he has put himself in the way he will receive the knocks, and if this committee do not give us an investigation favorable, I am going to Congress; I am going to have that institution broken up. They have missed their man. I am not going to work for anybody for nothing." So I left him and said, "I would like to see you and the doctor make this thing up." He said, "Well, I have nothing against Purvis." Said I, "Yes, but you have something against him, Cap.; we have met here and been friends and I do not see why you cannot be friends again. I am sure Charley Purvis does everything to assist you and your brother. Your brother is now furnishing milk at the hospital." "Well," said he, "I had a little milk bill and they even took that away from me because I sublet it to somebody, or something of that kind, or the milk was not good; they complained about everything." I left and said, "Never mind, I am going to get you and Purvis together and have this thing made up." Said he, "I have nothing against Charley, but I am going to take it further." So I parted.

Previous to that time I had a conversation with Mr. McFarland, when we talked quite freely on this subject in the cars. We were on duty together and we were going home. I told him, "Sid., you are going to set up a provision store; why don't you put in for furnishing the hospital with certain goods?" Said he, "I don't know that they would give it to me out there now." Said I, "You have no business in this investigation; you do not know anything about it." Said he, "I don't know anything about it, only what I have heard." Said I, "Why do you not put in for it; if you can furnish as good material as others you will get it as well as others." I added, "This thing ought to be stopped anyhow; we are all friends; but Purvis and Wall are quarreling; I am really sorry." He said to me, "Now, there is a way to stop this investigation." I asked, "How?" He said, "You tell Purvis to go and see Wall and have a talk; I am not going to have anything to do with it; I am speaking with you; you are in it and Col. is in it." Col. is Mr. Crusor. Said he, "You tell Col. to go to his friend and tell him to go and see Wall and have a talk, and you will stop this investigation." Said I, "I don't know." "Well," said he, "I will tell him." I met Dr. Purvis after that, that same evening, I think, and said I, "Doctor, there is going to be an effort made to get you and Wall together, and I do not think I will have anything to do with it." Purvis said, "Charley, I am much obliged to you; I know there is going to be an effort, and I do not know anything about the investigation." I said that I heard the committee had reported, but I did not know anything about it. Said he, "No; the committee has not reported; but I would not meet Mr. Wall under any consideration unless he goes and withdraws every charge, and then states to the Secretary of the Interior that they were all false." Said I, "I am very glad colonel is going to ask you, no doubt, to make this thing up, and I know colonel will do it from pure motives." I told him then what Mr. McFarland had said, and added that he was going

to colonel. Sure enough he did go. He has a good heart toward them both, and sure enough he was inclined to bring them together and make this thing up. I thought it had gone too far. I thought, another thing, the doctor would compromise himself by making it up—they had gone so far and testified to so many things against him. I have lived here in Washington all my life, was born here, and have never been in positions where I could hear of anything wrong about the institution. I have never before heard anything against the institution, and I thought the charges were got up for a purpose, and I did not think the doctor would compromise himself, after going so far, in any way, shape, or form, or see Mr. Wall at all unless Mr. Wall did withdraw those charges, and I told him so. That is all I know about it.

JOHN H. COOK (colored) sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. A practicing lawyer here.

Q. Your office is in the Le Droit building, I believe?—A. Yes, sir.

Q. Did you draw up some affidavits for witnesses in the case of the investigation of the Freedmen's Hospital?—A. I did.

Q. Do you remember for what witnesses, or any of them? Did you draw one for Lucius Harcomb?—A. Yes; Lucius Harcomb, William Brown, and there were fifty or sixty of them altogether. I cannot call the names now; I would know them at once if I should see them.

Q. What was your method of drawing those affidavits?—A. With reference to the men you have named, some four or five came to the room of the surgeons, one at a time, sat down, and stated to me the facts contained the affidavits, and I wrote down what they said, putting it in good English.

Q. You wrote it in their presence?—A. Yes, sir; they sat right by me. There may have been a surgeon present in one or two cases; Dr. Purvis may have been in the room, but in the majority of the instances the witness, or the person making the affidavit, and myself were alone in the room.

Q. Did you read the affidavits to them in every case?—A. I did; and you will find in the affidavits, I think, words interlined which they directed me to interline, showing what they intended to say. In every instance the affidavit was read over to them before they signed and swore to it.

Q. In the cases of those four or five persons who complained that they did not know the affidavits, you remember that that course was pursued?—A. I recollect distinctly that it was, and those men were very careful about what they said. They said they did not want to say anything to contradict the statements that they had made in their previous examination, or something to that effect, and therefore I said to them "You perhaps had better not make any affidavit at all." For reasons which I knew not, they were willing and anxious to make affidavits. and I took their statements.

Q. You did not change the ideas that they gave you in any degree, but endeavored to render their language into good English?—A. That was all. The affidavits will show that I interlined words to make them careful and strong in their favor, and at their suggestion.

Q. Lucius Harcomb, in an affidavit signed by his mark, made before O. S. B. Wall, justice of the peace, and a copy of which is sent to us from the Interior Department, says that he was not acquainted with

the contents of the affidavit, and it did not correctly represent his convictions?—A. I simply have to say to the committee, if you wish any remark from me on that subject, that that statement is simply untrue. Lucius Harcomb is a pretty sharp fellow. He came there to say some things and not others, and only what he said is contained in the affidavit that I drew up for him.

Q. William Brown says that you "proceeded to interrogate him and pretended to transcribe his answers. Having finished his questions, Cook directed him to sign a paper, which he did without reading, but he did not answer to it, as no oath was administered to him"?—A. I simply say to the committee that after putting down what William Brown said to me, and after reading it over to him, I then stood up and with his hand uplifted he made oath to every word contained in the affidavit. I read it to him again before he made oath, he standing and I standing.

Q. He quotes from that affidavit these words:

That complaints against the hospital did not begin until Mr. Felton came.

He says that he did not use such language. Do you remember that subject?—A. He certainly did. He said in substance, as far as I remember it now at this distance of time, that everything had passed along smoothly until Mr. Felton and Mr. Johnson came there, and then complaints began.

Q. He further says that he never said or thought that the patients who testified before the investigating committee were continually talked to by Mr. Felton and Mr. Johnson, and that they would not have testified as they did if they had not been urged to do so. Do you remember that subject?—A. Yes, sir. That was talked about also, and all of those men that testified said that the patients had been regularly talked to by Mr. Felton—the persons who testified before the investigating committee; and as I remember it now they also said that much of the testimony they gave was given because they were afraid that they would be turned out of the hospital if they did not so testify. In substance, that conversation occurred at the same time.

Q. Were these suggestions made by them, or were they drawn out by suggestions made by you?—A. I did not know anything about the matter at all. They were suggestions made by them. The witnesses appeared to have fallen out with Mr. Felton and Mr. Johnson, and they were making their complaints to me, and in that way that subject came out. I knew nothing whatever of the fact that Felton had had any contact with them until it came out from them. Indeed, I was not prepared to say anything in their behalf. I simply went there to take down what they said, and I will say frankly with sympathy for them, for I did not want to be a party to foisting on the hospital or keeping on the hospital any gentlemen who were either incompetent or were treating them improperly. The sympathies I had were in the other direction.

By Mr. EATON:

Q. You had no general knowledge of the hospital one way or the other?—A. No, sir; except that I have been here for ten years, and I have now and then passed in and out the hospital both during Dr. Reyburn's time and Dr. Palmer's time.

Q. You were in nobody's interest?—A. Nobody's interest at all. I want justice done there. If these gentlemen are not what they ought to be and are maltreating the patients, I am not in favor of them. I will say with reference to those affidavits that there never have been any made more fairly, giving the patients a fairer chance to state what

they felt in their souls than the affidavits that were sent to the Secretary of the Interior. I ought to add that all I knew about it was that I was representing Dr. Palmer as counsel in the absence of Mr. Riddle.

By Mr. SARGENT:

Q. How long was Mr. Riddle absent?—A. Mr. Riddle, as I remember, did not get in town until the investigation had been under way for about a week. Mr. Miller was there a portion of the time, and I was there, and I think I was there also after Mr. Riddle came back, and he conducted the investigation. All I knew or saw was at that time.

Q. Are you a notary public?—A. I am, and have been for the last six years.

Q. You were discharging your duty there as notary public?—A. Simply that. At the suggestion of Dr. Palmer I went up to find out what these people had to say. The men came in and I went into the ward by myself to the women and took their statements, and they will be found in the affidavits presented to the Secretary of the Interior.

Q. In each instance you got the ideas of the patient and put those into the documents, and not your own?—A. Exactly; not my own at all; and the ideas are not presented as strongly in favor of the hospital as the patients in some instances stated to me, because I could not sit down and make an affidavit for each patient. I simply took the substance of the leading facts on conference with the patients there. I think the committee will find that they are a good deal stronger than I put them in the affidavits.

JOHN T. RABBITT sworn and examined.

By Mr. SARGENT:

Question. Where is your place of business?—Answer. In the Centre Market.

Q. What business are you in?—A. Produce dealer.

Q. Do you furnish any articles to the Freedmen's Hospital?—A. Yes, sir.

Q. What?—A. Chickens, eggs, butter, and cabbages when they are in season; but cabbages not being in season, kail at this time of the year. In summer time I furnish vegetables, such as sweet-potatoes, tomatoes, &c.

Q. How long have you been furnishing eggs and chickens to the hospital? A. About seven years; between seven and eight years.

Q. You were furnishing them when Dr. Palmer went there?—A. Yes, sir.

Q. And have continued since?—A. Yes, sir; I have continued since.

Q. Do you furnish about the same amount of eggs in the season that you formerly did?—A. The same now as when I first went there; 30 dozen is the usual order.

Q. Where do you deliver them?—A. At the hospital. Sometimes the hospital wagon comes for them, and I put them in the wagon.

Q. Do you furnish good, fresh eggs?—A. Yes, sir; everything I send there is fresh. If it is not fresh they send it back again. They are very strict about the stuff out there.

Q. How do you deal with them as to prices compared with what you sell to other people?—A. For a heap less money. They buy by the quantity, and we generally put things to them a cent or two cents less.

Q. What do you get for eggs?—A. Thirteen cents a dozen this month.

Q. What is the average price this month to persons who do not take large quantities?—A. Fifteen cents retail.

Q. Do you pay anybody a percentage?—A. No, sir; I never had ten minutes' talk with any person out there. Dr. Palmer I never spoke to five minutes in my life; never saw him more than four or five times.

Q. You have no arrangement, and have not had any arrangement, by which anybody but the government is to profit by your trade?—A. That is all. Dr. Glennan sends the order.

Q. No understanding with Dr. Glennan that you are to deliver a less quantity than is charged to the government?—A. No, sir.

Q. Do you deliver less than are charged?—A. No, sir; the order generally runs even, and when they send an order for fifty pounds, if the package is fifty-two or fifty-three I just send it, only charging according to the order.

Q. I understand that you deal fairly and honestly with the government?—A. Yes, sir; they get every pound. We weigh everything that goes out there.

By Mr. EATON:

Q. What do you charge the government for chickens now?—A. We charge them six. They get the very largest chickens we can get. They are grown fowls.

Q. Six what?—A. Six dollars a dozen. They must be large, grown fowls.

Q. A dollar a pair?—A. Yes, sir.

Q. What would you charge me, for instance, if I marketed with you and wanted one pair?—A. A dollar or a dollar and a quarter. The size they get would bring a dollar and a quarter almost any time—a dollar at the cheapest time of the season.

Q. What is your mode of delivery of chickens; how often do you deliver?—A. When the oyster season is out, we generally deliver chickens three times a week; but this season of the year twice a week, on Tuesdays and Saturdays.

Q. Oftener at the other season?—A. Yes, sir.

Q. When it is not the oyster season?—A. We deliver then three times a week.

Q. Therefore there would be more some weeks than others?—A. Just as the orders come we fill them. If orders come in blank form this way [exhibiting] we fill them just as they come:

[The order is as follows:

FREEDMEN'S HOSPITAL,
Washington, March 2, 1878.

J. Rabbitt:
Twelve chickens.

P. GLENNAN,
Surgeon.]

They are very strict in quantity and quality of articles We only send as they send orders.

SATURDAY, *March* 16, 1878.

The subcommittee met at the room of the Committee on Appropriations.

Dr. DANIEL S. LAMB sworn and examined.

By Mr. SARGENT:

Question. What is your profession?—Answer. A physician.

Q. Are you at present in the Government employ?—A. Yes, sir.

Q. Where?—A. At the Medical Museum.

Q. Have you ever visited the Freedmen's Hospital for any purpose?—A. Not in any way officially. I have been there as a casual visitor a few times.

Q. Have you had anything to do with *post mortem* examinations there?—A. I have made a number.

Q. How were those *post mortem* examinations made, with care and decency, or otherwise?—A. Always with care and decency.

Q. The same care and decency that are used in other cases of *post mortem* examinations?—A. The same.

Q. Something has been said about there being occasions of jocularity and indecency; is there any truth in that?—A. I never noticed any difference between *post mortems* there and *post mortems* elsewhere in private houses.

Q. Did you have occasion to go into the hospital itself while you were there?—A. Only casually—simply as matter of interest to myself—to look in once or twice.

Q. While there did you notice whether the hospital seemed to be as well conducted as institutions of that kind?—A. Quite as well as any I ever saw.

Q. When were you there?—A. I have been there once or twice this past winter.

Q. Before that time?—A. Probably the winter before last. I recollect being there a number of times.

By Mr. EATON:

Q. Previous to this last winter?—A. Yes, sir.

By Mr. SARGENT:

Q. Did you find the hospital on previous occasions the same as during the last winter or different, so far as cleanliness and appearance were concerned?—A. As far as I recollect I never saw any difference.

ADAM T. CAVIS sworn and examined.

By Mr. SARGENT:

Question. In what employment are you?—Answer. I am a printer at the Government Printing Office.

Q. A letter dated Washington, February 12, 1878, sent by you, has been handed to the committee. Is this your letter? [Handing to the witness the following letter:]

WASHINGTON, *February* 12, 1878.

Dr. G. S. PALMER:

SIR: Observing by the papers and the proceedings of Congress that your management of the Freedmen's Hospital is being investigated on charges and specifications of gross mismanagement financially and bad treatment of patients in every way, I have thought it due to fair-dealing to say that about two years ago a colored servant living with me developed such marked consumptive symptoms as compelled effort to get her in the Freedmen's Hospital, she having no relatives able to care for her.

Application was successful, and she remained there for a period of fifteen or more months, frequently visited by members of my family, and on one occasion by myself.

Her uniform statements to each and all of us were that she was well treated in every respect, lacking nothing in medicine, food, nourishments, and attendance. In fact, she expressed herself as being better cared for than she had ever been in her life.

I can bear testimony to the cleanliness of her ward, including her bedding, personal clothing, and all the surroundings of her room.

You, doctor, do not know me, nor I you, but I have thought the foregoing statement of Rachael Henderson due to the hospital management, whether beneficial to you or others.

Very respectfully,

A. T. CAVIS.

Place of business, proof-room, Government Printing Office; residence, 807 Eighth street N. E.

A. (Examining.) That is my letter.

Q. Are the statements contained in this letter correct?—A. They are as to matters of my own knowledge; and as to the rest, I believe them to be true.

Q. Just make a statement in reference to the matter.—A. Since sending the letter, I have refreshed my memory by letters written to my wife, in Baltimore; and in one of August 6th, I communicated information of a visit, which was on the day before I wrote that letter, therefore it must have been on the 5th of August, 1876. I had been trying for some time to see this colored girl; my wife had been importuning me to go and see her; and I went to the hospital. It was somewhat after the usual hour for visitors being allowed to enter, but under the circumstances, as my employment was very constant, so that I could not leave the office earlier, being very much occupied, I persuaded them, ultimately, to let me in. Ordinarily, without the consent of the physician in charge, they could not; but the chief nurse, as I suppose she might be called, who was in charge in the absence of the physician, took the responsibility of admitting me to see this girl. I found the ward in which she was, which was on the north side of the main building, close to the office, on the second floor. I found her there, near the east end. I talked with her for some time. I asked her how she was, how she was treated, and so on; and she answered me that she had everything she desired—she was carefully attended to. I observed that the bed-clothing was clean. All the appearances of her person indicated cleanliness. I glanced my eye around at the other beds, and I found that they were in a similar condition of cleanliness. She said she was treated well medically, and had no cause of complaint. I would mention that she had great prejudice in the first place about going to the hospital, and it was with the utmost effort that we succeeded in coaxing her to go, and therefore her gratification is more strongly in favor of her treatment.

Q. Did you visit the hospital more than once?—A. Only once.

Q. Did your wife visit the hospital?—A. My wife visited the hospital three times, and her testimony is coincident with mine.

Q. Your wife is not in the city, I believe, now?—A. She is here, but I would rather not have her summoned.

Q. The representations of the girl were the same to your wife as to yourself?—A. Yes, sir.

Q. And your wife observed as you did?—A. Exactly the same. Her testimony would be much more strongly in favor of the proper management of the hospital, so far as that girl is concerned. Several of my children, females, were very much attached to this girl; they went to see her repeatedly, and carried her some little things from home. She said to them she had everything to eat there that she wished. My wife said that she found present on the table, by this girl, milk-punch. Her disease was pulmonary.

By Mr. EATON:

Q. Is she living now?—A. No; she is dead. She entered the hospital in January, 1876, and died in September following. She had a brother-in-law, who lived at the Freedman's building, named Benjamin West, and through his efforts she got in there, based on a letter I wrote.

Q. She was a servant of yours?—A. Yes, sir. She was very much attached to our family, though not very long in our employ—upward of a year.

J. N. FIFIELD, sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. Policeman on the Metropolitan Police force.

Q. Have you visited the Freedman's Hospital officially?—A. I have. I have been in that neighborhood, on that beat for the last seven years.

Q. What was the official occasion of your visiting there?—A. I have been called on to take patients there and leave them there. They have always been very accommodating, and they take patients in there gratuitously.

Q. Have you visited there by day and by night?—A. Yes, sir.

Q. What is your observation of the manner in which the hospital is conducted?—A. As far as I know and as far as I have seen, it has been very well. I have seen them giving the patients chicken-soup and broth and the nourishment seemed to be very good.

Q. What has been your observation during the last three years, as to the cleanliness of the institution?—A. Very good. I have been connected with other institutions of the kind myself before I went on the police force, and as far as I have seen, it was very cleanly.

Q. What seemed to be the treatment of the patients?—A. Very good.

Q. Would you afterwards have occasion to see the persons you took there and talk to them?—A. Yes, sir; I used to have to call every day to see them. They were prisoners of mine at the time, who had been shot, for instance, and were very low. I have seen Dr. Purvis and Dr. Glennan attend to them daily, and they seemed to be very attentive to them.

Q. Would those persons make complaint to you of their treatment or food in any way?—A. I have never heard any complaint. I did not know what I was summoned here for at all.

Q. You have not had complaints from these persons during these years?—A. I have not. I have heard no complaints.

Q. Would they have opportunity to make complaint to you or be likely to make complaint to you if they were not well treated?—A. They would. I have been on that beat and have been going around the hospital for seven years until the last two months, when I was transferred to a beat further out in the county. Up to that time for the last seven years it has been my duty to watch around that beat, and it is in a very bad neighborhood. There is near there a place called Cole's Row, full of very bad people; and this hospital is right in that place. It is one of the worst places in the city of Washington, I suppose, for bad characters.

Q. You say you were removed from that beat about two months ago?—A. Yes, sir.

Q. During a month or two before you were removed were you in the hospital?—A. Yes, sir.

Q. Did you notice any difference, any improvement from what it was before?—A. I did not. I did not notice any change.

JAMES F. MCGRAW sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. Metropolitan police officer.

Q. How long have you been connected with it?—A. Nearly five years; four years and six months.

Q. Have you had occasion as an officer to visit the Freedmen's Hospital during that time?—A. Yes, sir; frequently.

Q. What has called you there?—A. I have been there once or twice in cases of parties being shot; on another occasion in the case of a party who was knocked in the head with a brick, and in another case where a patient was very sick. I have had to summon parties there as witnesses, and to go over for the doctors, to bring them to the station and attend patients there once in a while.

Q. Would you be about in the hospital during those visits?—A. Yes, sir.

Q. What was your observation of the conduct of the hospital?—A. It was always clean and respectable.

Q. Did you have conversation with any of the patients you took there as to their treatment?—A. Yes, sir. I used to go to see to them two or three times a week perhaps.

Q. What was their testimony in reference to the condition of the hospital?—A. I saw them always pretty well satisfied; always well treated.

Q. Have you seen any improvement in that respect during the last few months?—A. No, sir; it is just the same as it always was, to my knowledge and belief. I do not see a particle of change.

H. K. REDWAY sworn and examined.

By Mr. SARGENT:

Question. Are you sergeant of the Metropolitan Police?—Answer. Yes, sir; one of the sergeants of the second precinct, where this hospital is located.

Q. How long have you been on the Metropolitan police?—A. Nearly ten years.

Q. Have you had occasion, officially, to visit the Freedmen's Hospital?—A. I have.

Q. How often do you think you have been there?—A. I have been there, perhaps, twice a week, then once a month, then once in two months, and so along for the last seven years. I have been in that precinct over seven years.

Q. What has been the occasion of your going there?—A. Generally to look after parties who had been injured and taken there for treatment.

Q. What was your observation of the manner in which the hospital has been conducted?—A. As far as I have been able to judge, it seemed to be well conducted; the patients seemed to be well cared for, and looked clean, and they were kept as cleanly as possible, as I should think patients could be, in the condition some of them were. I will state that I am particularly acquainted with Dr. Glennan, and was acquainted with him during the war. He was surgeon at the Stone Hospital, the Eye and Ear Infirmary, on Meridian Hill. I was very sick at Mount Pleasant Hospital. He used to come in to see me, and, being acquainted with him, I used to go over there, sometimes, to see him, as well as to look after parties taken there.

Q. Those visits, official and friendly, to Dr. Glennan, gave you an opportunity to see the manner in which the hospital was conducted?—A. Yes, sir; and being unfortunate enough to be in hospital once myself for awhile, I knew something of his treatment.

Q. Your knowledge of the matter, then, is that the Freedmen's Hospital was cleanly, and patients seemed to be contented and well taken care of?—A. So far as I could judge.

Q. Did you ever have any complaint from those you took there?—A. Never. We had men that were taken there, shot about the head and other places. I never heard any complaint. Their wounds seemed to be dressed, and well cared for generally.

Q. Were the men you took there all put in Dr. Glennan's ward, or in some of the other wards sometimes?—A. I have had occasion to go but very few times into Dr. Purvis's room, perhaps two or three times; generally into Dr. Glennan's.

Q. What was the condition of Dr. Purvis's ward?—A. It seemed to be clean and in good condition.

Q. Have you noticed any improvement in the hospital of late in that particular?—A. I do not know that I have. The doctors have been uniformly kind there. Whenever we have had occasion to send for one they have come at all times, night and day, whenever it was so that they could. They have always been ready to receive patients without any formality for the time being. It has been a great relief to us to be able to have some place to take parties who were badly injured and sick.

Q. Patients are received temporarily, you say. Do you apply after that to the Secretary of the Interior?—A. Yes, sir.

Q. So that, for them to remain there, except temporarily, you would get permission from the Secretary of the Interior?—A. They would remain there until they recovered, or recovered sufficiently to be sent away.

WILLIAM H. WEST (colored) recalled.

By Mr. SARGENT:

Question. Are you connected with the Metropolitan police?—Answer. I am.

Q. How long have you been?—A. In the neighborhood of eight years.

Q. Have you had occasion to visit the Freedmen's Hospital officially?—A. Yes, sir; on several different occasions I have had to visit it.

Q. What business took you there?—A. I have had to go there to take patients there who were injured. In one instance I remember that a man was run over in the street—a very old man by the name of Travis Taylor, about seventy-odd years old. He was run over in the street, and I arrested the party that drove over him, took him to the police court, and took this old gentleman to the hospital and put him in the care of Dr. Purvis.

Q. Did Dr. Purvis receive him and take care of him?—A. He did, in the most kindly manner; so much so that the old gentleman, after his recovery, spoke in great credit to Dr. Purvis for the kind manner in which he was treated.

Q. What was your observation during your visits there as to the condition of the hospital?—A. I never found it in any other way than the most cleanly manner in each ward I visited. I visited several. I visited Dr. Glennan's and Dr. Purvis's wards—Dr. Purvis's more frequently than any other—and I have always found that in the most cleanly condition.

Q. Did you talk with these patients that you took there, and did they ever complain of their treatment?—A. No, sir. I have talked with five

or six, and with some whom I did not take there. In one instance, Officer McGraw took a boy there who was hit in the head with a stone, and others who were shot, and they always spoke in the highest terms of the manner in which they were treated. I never heard a complaint from one before this complaint. Robert Johnson was the first man I ever heard say anything against the hospital.

Q. Are the policemen generally of the opinion in regard to this hospital of you four gentlemen who have been examined here, as far as you know?—A. Yes, sir. I have never heard any express themselves only in the same manner and with the greatest regard as to Dr. Purvis; and, in fact, all the doctors.

Q. You have heard them talk among themselves in that way?—A. Yes, sir.

Dr. THOMAS B. HOOD sworn and examined.

By Mr. SARGENT:

Question. What is your profession?—Answer. Physician.

Q. What is your present employment?—A. I am the medical referee of the Pension Office.

Q. How long have you been in the Pension Office?—A. I believe six years.

Q. Were you appointed on a board of investigation by the Secretary of the Interior on the Freedmen's Hospital?—A. I was.

Q. When were you appointed?—A. September 24th is the date of the order detailing me to the board.

Q. Who were your associates?—A. Dr. George Ewing and J. K. Walsh.

Q. Is Walsh a physician?—A. Yes, sir.

Q. Have you a copy of the instructions given you at that time?—A. I have the original, not a copy.

Q. Please hand it to the committee.—A. I will. It is:

DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY,
Washington, D. C., September 24, 1877.

A board to consist of Dr. T. B. Hood of the Pension Office, Dr. George C. Ewing, of the Secretary's Office, and Dr. J. K. Walsh, of the General Land Office, is hereby constituted to examine into the condition and conduct of the Freedmen's Hospital, especially as to the truth or falsity of the allegations set forth in the charges and specifications, under date of August 25, 1877, and signed by Robert T. Johnson.

The board will proceed with the examination as soon as practicable, and will be allowed free access to any and all such books, papers, records, and rooms of the hospital as may be necessary to the purposes of the examination, and will also be allowed to take the evidence of officials, employés, or inmates of the hospital under oath, as prescribed by section 183 of the Revised Statutes.

Upon completion of their examination the board will make report in writing to the Secretary of the Interior, together with such suggestions or recommendations as may be deemed advisable.

The proceedings of the board will be conducted in secret sessions.

C. SCHURZ,
Secretary.

Q. Did you proceed to make such investigation?—A. Yes, sir; within a few days after that date—probably, within a week.

Q. Did you take the evidence by short-hand?—A. A part of it.

Q. And a part of it not?—A. A part of it not.

Q. I see by the instructions you are thus directed: "Upon completion of their examination, the board will make report in writing to the Secretary of the Interior, together with such suggestions or recommendations as may be deemed advisable." Did you understand that to

refer to the report of your conclusions, or the report of all testimony you should take?—A. The report of conclusions.

Q. Did you make that report?—A. Yes, sir.

Q. (Exhibiting a document.) Is this the report you made?—A. (Examining.) I believe it is.

The document is as follows:

DEPARTMENT OF THE INTERIOR,
November 13, 1877.

REPORT OF THE BOARD OF INVESTIGATION FREEDMEN'S HOSPITAL.

Members of Board.—T. B. Hood, George Ewing, Jno. K. Walsh.

59 inclosures.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., November 13, 1877.

SIR: The board constituted by your order of 24th September last "to examine into the condition and conduct of the Freedmen's Hospital, especially as to the truth or falsity of the allegations set forth in the charges and specifications under date of August 25, 1877, and signed by Robert T. Johnson," has the honor to submit the following report upon the charges and specifications signed by Robert T. Johnson, dated August 25, 1877:

SPECIFICATION FIRST.—"In that said Palmer provides the patients in said hospital revolting food measured out to each in quantity insufficient to satisfy hunger; the provender is execrably cooked and especially unfit for invalids, whose condition requires good, palatable, and nutritious food. Beeves' heads and legs, oftentimes putrid, chopped up and concocted into odious messes; pickled pork and beef, saturated in brine from time immemorial till it becomes semi-petrified and rusty; ancient mackerel, corroded with salt and nauseating in smell; sour bread and musty hominy; a solitary potato in its jacket, about the size of a hen's egg, allotted each patient at dinner, and insipid slops nominated coffee and tea, constitute, in substance, the regular diet of the institution, and the meals served in the mess-room do not actually cost more than seven cents per day for each patient.

Superannuated, slovenly, and unskillful persons are employed as cooks at four dollars per month for the services of each, and such culinary botches could not fail to spoil the best of viands if intrusted to them to prepare for the table; but with inferior provisions such as said Palmer supplies, they produce detestable messes that are not fit for any human being to eat."

The statements contained in this specification are not sustained by the facts; the quantity of food furnished has been amply sufficient, its quality good, and the cooking found to compare favorably with the average of hospitals.

Accompanying marked "6" is the "full diet" table of Seminary Hospital, Georgetown, D. C., given as a standard in the Hospital Steward's Manual, page 194, and marked "7" the "full diet" table of Freedmen's Hospital.

From January 1st to October 31st, 1877, the average quantity of bread furnished each inmate has been one pound per day, of meat 21¾ pounds per month, of milk 1½ gallons per month, together with a sufficient quantity of sugar, coffee, rice, hominy, butter, eggs, &c. The tables marked 8, 9, 10, and 11, give an idea of the quantity and variety of food furnished this hospital from July, 1874, to October 31, 1877.

In addition an "extra diet" is supplied, and consists of such lighter articles of food and delicacies as may be directed by the attending physicians; this was found of considerable variety, well adapted to the needs and cravings of sick people, and furnished to a very large proportion of the inmates.

The appropriation for subsistence for fiscal year ending June 30, 1878, is $18,000; which gives an average of about 20 cents per day for each inmate.

SPECIFICATION SECOND.—"In that, under said Palmer's management, the bath-room and water-closets attached to the male wards of said hospital are kept in an offensive condition; slops are emptied therein, and filthy utensils, used by the sick, are washed in the bath-tub in which the patients of the respective wards bathe, whereby they are exposed to imminent danger of contracting terrible diseases, and malaria is liable to be generated by the foul odors and decomposing matter therein that poison the atmosphere."

It was found by personal inspection that the bath-rooms, water-closets, &c., were in as good condition as could be expected, especially when the plan of the hospital buildings and character of the inmates are taken into consideration.

SPECIFICATION THIRD.—"In that, under said Palmer's management, the furniture, fixtures, and utensils in the wards are dilapidated, uncomfortable, mean, and unsuited for service; that the bedsteads, beds, pillows, sheets, blankets, spreads, chairs, tables,

and other articles were transferred to said hospital by the government or sanitary commission when the Army hospitals were abandoned at the close of the late war, and have been in constant service and received severe usage for more than ten years; that the beds, bedding, and wainscots of the walls are infested with multitudinous and repulsive vermin of various kinds, and no proper effort is made to destroy them, and that the entire furniture and equipments of any one ward would not sell for the sum of one hundred dollars."

The board find that the bedsteads are of the style and character employed in Army hospitals, and have probably been in use for many years, but are still serviceable; that the beds and bedding have been changed from time to time as necessity has required; in that worn-out mattresses have been replaced by new ones manufactured in the hospital, and blankets purchased in such quantities from year to year to replace old ones as the appropriations would allow.

It was found upon inspection that a portion of the beds and bedding were old and worn, but it is believed that they are as good as the appropriation will allow, and such as would ordinarily be found in hospitals.

It is undoubtedly true that vermin of a certain class do exist in the beds and wainscoting of the walls, but it was not found that they existed in excessive numbers when the character of the inmates and their associations are considered. Proper measures we believe have been taken, under the instructions of the surgeons of the wards, to abate this nuisance as far as practicable, but it must be taken into consideration that the buildings are of such construction as to afford lodgment to certain classes of vermin, such as bed-bugs and water-bugs, which could be destroyed wholly and successfully only by the destruction of the buildings themselves.

SPECIFICATION FOURTH.—"In that, under said Palmer's management, patients afflicted with contagious, infectious, and loathsome disorders are commingled promiscuously in the wards with the other patients, who are thus exposed to the dangers of contracting terrible maladies, whereas the patients so afflicted should be classified and congregated in private rooms, of which there is an abundance in said hospital, and thus be isolated from the other patients, who would be secured immunity from harm from that source."

Patients suffering with the ordinarily so-called "contagious" diseases are not admitted to this hospital. The inmates may be divided into two classes—one comprising those not properly inmates of a hospital, but of an asylum, consisting of the old, decrepit, infirm, insane, idiotic, &c., and this class, it is understood, constitute a kind of legacy from the old Freedmen's Bureau, and have been maintained in the hospital from its inception. The remaining class represent most of the non-contagious maladies, and, since they are necessarily commingled in the wards, it cannot be otherwise than that they subject each other to annoyance and inconvenience. We were not able to find an abundance of private rooms, nor indeed any which could properly be assigned to private patients; such rooms in connection with each ward being intended for and used by attendants, and for the isolation of an occasional patient suffering with what is properly a loathsome disease; in short, the hospital is not constructed with any reference to the isolation of inmates.

We have failed to learn of any instance wherein one inmate has communicated disease to another by reason of contiguity, and do not consider it probable that such should happen.

SPECIFICATION FIFTH.—"In that, through said Palmer's remissness, consumptive and asthmatic patients are quartered in the wards among the other patients, who are thus compelled to breathe an atmosphere contaminated with the exhalations from diseased lungs, and are deprived of their sleep and disturbed in their rest at night by incessant and painful coughing, hawking, and expectorating, which in pulmonary complaints are infinitely worse in the night-time than during the day; whereas such obnoxious patients could readily be isolated from the others by assigning them to private rooms, which, with a reckless disregard for the health and comfort of the patients, are permitted to be occupied by employés of the institution, or by persons that are comparatively well."

Consumptive and asthmatic patients were found commingled in the wards with other patients, but we do not believe that they could be assigned to private rooms or in any way segregated. The annoyances complained of have always been recognized as of the counterbalancing evils and inseparable from hospital life.

SPECIFICATION SIXTH.—"In that said Palmer has allowed private persons to keep three cows on the hospital premises at the government expense while he purchased from outside parties all the milk required for the use of the institution, yet the same number of cows belonging to the hospital could have been kept at the same cost and supplied the hospital with pure milk, whereby the government would have saved the large milk-bills that have been paid for that institution needlessly."

The evidence shows that the cows mentioned were not fed at government expense, and we do not think it would be practicable to keep a sufficient number of cows to supply the institution with milk. The pasturage on the limited hospital grounds would not be sufficient for one cow.

SPECIFICATION SEVENTH.—"Said Palmer permits the Howard University and the Howard mansion to be constantly supplied with water at the government expense; the tank on each of these buildings is daily filled with water pumped by the government engineer at said hospital, who runs the government engine for that purpose with government fuel, at an estimated cost of five dollars per day, and the sum of eighteen hundred dollars of public money is thus misused annually, to which extent the appropriation to said hospital is diminished. Such conversion of public property to private use is a grave offense that demands punishment of the offender and restitution to the government."

We find that at the time Dr. Palmer assumed charge of the Freedmen's Hospital a lease existed between the former surgeon-in-chief (Dr. R. Reyburn) and Howard University, in which, among other rights reserved to the said university, it was agreed that the engine located on the Freedmen's Hospital grounds, but belonging to the university, should be used "to pump water to the main buildings of Howard University one hour per day (Sundays excepted)." Copy of lease herewith, marked "13." In making a new lease, July 19, 1875 (copy herewith, marked "14"), which was approved by the honorable Secretary of the Interior in communication to Dr. Palmer, under date of July 22, 1875, the same agreement was made as to the use of the engine to pump water to the main buildings of Howard University.

The expense incurred by compliance with this provision of the lease does not exceed eighty ($80) dollars per annum.

SPECIFICATION EIGHTH.—"Said Palmer has done grievous harm to the inmates of said hospital by abrogating the custom of employing a night-nurse for each ward, but compelling one man during the night to take charge of two wards containing at least sixty patients, and also attend to four fires in cold weather, which onerous duties cannot be properly discharged by a single individual. Hence patients, in severe cases, suffer intensely from neglect, and disturb the other patients by their cries for succor and relief, while the dying are abandoned to their fate, and suffered to expire in darkness and gloom, without care, solace, or sympathy, and are hustled out of the ward to the dead-house as soon as the vital spark is extinguished."

The testimony fails to show that Dr. Palmer has abrogated any custom heretofore existing in the employment of night-nurses. The same number and the same individuals, with one or two exceptions, are employed now as under former administrations of the hospital. It is true that comparatively a small number of night-nurses are regularly employed, but it is expected, and properly so, that convalescents and others should, in emergency, furnish the extra help needed. In the wards which are occupied by the old and infirm only, no necessity exists for the employment of permanent night-nurses, and in the wards where needed a sufficient number of such nurses are, in our oppinion, employed, and we failed to discover any instance of neglect of the dying by reason of insufficiency of such help.

SPECIFICATION NINTH.—"In that, under said Palmer's management, goods, wares, and merchandise required for said hospital have not been purchased as far as practicable on contracts awarded to lowest responsible bidder after public advertisement, as is the custom with the War and Navy Departments, and in every well-regulated government institution, but have, to a great extent, been procured from retail dealers in small quantities from time to time as the immediate exigency demanded, whereby articles of inferior quality were obtained at high prices, the public money was squandered, and the hospital failed to receive the full benefit of the appropriatona granted it by Congress."

It is found, from examination of the bills for supplies, that the prices paid were generally fair and reasonable; for some few articles probably higher prices have been paid than the lowest wholesale market prices; these articles were few in number, and taking the purchases altogether it is doubtful if the supplies could have been obtained more advantageously to the hospital.

The principal exception to this statement is found in the bills of Charles Fink & Co., in which the prices are somewhat higher than the prevailing rates. The attention of Mr. O. S. B. Wall (the principal member of the firm) was called to this by letter from Dr. Palmer dated October 7, 1876 (copy herewith, marked 49).

The price paid for milk was the subject of consideration, and it was explained on the ground of the high standard of excellence, and moreover that the price had been reduced until it was now very considerably lower than under former administrations.

SPECIFICATION TENTH.—"The legitimate expenses of said hospital, as conducted under its present management, do not exceed twenty-five thousand dollars per annum, and all money beyond that sum drawn out of the Treasury has been misused, squandered, embezzled, or purloined. Through such perversion or abstraction of appropriated funds the government is alleged to have been plundered and the hospital defrauded to the amount of one hundred and fifty thousand dollars during the past five years, while the members of the medical staff, managers of the institution, have been raised from limited means to affluence, become the owners of valuable real estate, and fare sumptuously every day at the expense of the poor and the sick, the maimed and the dying, for whom

Congress made liberal provision, if the public bounty had been honestly and judiciously administered for the sole benefit and behoof of the beneficiaries, and not for the individual profit and aggrandizement of the functionaries, to whom the execution of the trust was confided."

The vouchers on file at the Interior Department and the evidence adduced furnish sufficient proof that the full amount appropriated for this hospital has been expended for the purposes for which it was intended, and none other; and not a particle of evidence has been presented to show that any portion of the several amounts annually appropriated has been "misused, squandered, embezzled, or purloined." Nor has the board been able to procure any evidence that the "medical staff, managers of the institution," have in any way benefited from their connection therewith except in the legitimate manner provided by law.

SPECIFICATION ELEVENTH.—"Under said Palmer's management, lunatics, idiots, blind persons and able-bodied paupers are permanent inmates of said hospital, instead of being consigned to the institutions specially established for the reception of such unfortunates. Said hospital is a sanitary institution, created solely for the accommodation, care and treatment of invalids, and the presence of these intruders among the patients is detrimental, repugnant, and dangerous to them. These individuals, moreover, occupy much room in the wards, which ought to be appropriated to such persons as require medical and surgical treatment, many of whom are crowded out of said hospital by these objectionable inmates; the expense of supporting these creatures is a misuse of the money appropriated for the maintenance of said hospital, and the patients, to that extent, are deprived of their rights and property. The lunatics and idiots are not treated as patients in charge of nurses, but are consigned to the custody of keepers, who frequently beat them and reduce them to subjection by fear and violence. They are clothed in rags, are filthy in their habits, and subsist on refuse and slops. These obnoxious persons are alleged to be domiciled in said hospital for the purpose of augmenting the total number of inmates, in order that the maintenance of said hospital may plausibly be represented as costing more than is actually expended for its support."

This specification is based on a total misapprehension as to the spirit of this institution as well as of the facts; from the outset the blind, decrepit, old, idiotic, and insane indigent have been admitted to its privileges as well as those needing medical and surgical treatment; and although few of the former class have been admitted in latter years, yet the board do not find any provision of law excluding them. It is to the class of permanent inmates that clothing is issued regularly, and it has not been found that any of them have suffered from lack of proper supply; to the transient patients it is issued only where essentially necessary, but in no case have we found it withheld from them except for good and sufficient reasons.

It is very difficult, by reason of the mental condition of some of these inmates, to keep them properly clad, but, from a personal inspection and the evidence adduced, we are satisfied that in every respect they are as well cared for as possible under the circumstances; and as to being subjected to personal violence and abuse, it was found that but in few instances has force been used in correcting them, and the circumstances appear to have justified the course pursued.

SPECIFICATION TWELFTH.—"Since the commencement of the fiscal year, on the 1st day of July, 1877, three surgeons have been officially connected with said hospital, notwithstanding the appropriation act makes provision for the employment of two surgeons only for the current year. If these three surgeons have received compensation for their services at said hospital since July 1, 1877, the payment to one of them was unauthorized and illegal, the public money to that extent was misused for that purpose, and the money appropriated to said hospital was squandered to the amount of such disbursement. If, however, one of said surgeons continued his professional connection with said hospital and treated its patients without receiving any salary or compensation from the appropriation, it is palpable that he derives a profit out of the institution equivalent in value to his services, inasmuch as these surgeons are not so disinterested and philanthropic as to professionally treat poor, friendless, uninfluential invalids without pecuniary reward. Either circumstance evinces official malfeasance, unscrupulous greed, and flagrant betrayal of a sacred trust in the management of said hospital and its executive officers."

It was found that prior to June 30, 1877, there were employed in this hospital five medical officers, to wit:

Dr. G. S. Palmer, surgeon-in-chief, salary $2,400 per annum.
P. Glennan, executive officer, salary $2,100 per annum.
C. B. Purvis, house physician, salary $2,100 per annum.
A. T. Augusta, ward physician, salary $1,200 per annum.
C. Goerner, dispensary clerk, salary $1,080 per annum.

Since that period, with the exception of the month of July, when Dr. Goerner was still borne upon the rolls, there have been employed three medical officers, viz:

Dr. G. S. Palmer, surgeon-in-chief, salary $1,400 per annum.
Dr. P. Glennan, assistant surgeon and dispensary clerk, salary $1,200 per annum.

Dr. C. B. Purvis, house physician, paid $150 for July; and since, at the rate of $1,400 per annum.

The salaries of Drs. Palmer and Glennan are fixed and provided for in the act making appropriation for the hospital for the fiscal year ending June 30, 1878.

The manner of paying Dr. Purvis is explained in Dr. Palmer's written testimony (marked 5), by drawing upon a fund which has accumulated to the credit of the hospital in the shape of a hospital or surplus fund. This fund is in the hands of the disbursing clerk, Department of the Interior, and is drawn upon in the same manner as appropriated funds, and has always been held as a reserve fund to draw upon in emergencies, which is the case in the opinion of the surgeon-in-chief in this matter, he considering the services of three medical officers essential to the proper management of the institution; in which opinion we concur.

Upon the supplementary specifications signed by Robert T. Johnson, dated October 18, 1877.

SUPPLEMENTARY SPECIFICATION FIRST.—"Halls, lecture-rooms, dissecting-rooms, and private apartments, used or occupied exclusively by the Howard University Medical College, have been lighted and heated at the government expense out of the appropriation to Freedmen's Hospital, in contravention of law, since the first day of July, 1876, to the present time, through the procurement or with the knowledge of said Palmer."

The facts are that some months after Dr. Palmer assumed control of the hospital, to wit, July 19, 1875, he executed the lease heretofore referred to (marked 14), which was approved by the honorable Secretary of the Interior, July 22, 1875; under the terms of which certain rooms, &c., which had been in the occupancy of the medical department of Howard University were reserved to its use; and it was also agreed that these rooms, &c., should be heated and lighted at the expense of the government.

This lease expired June 30, 1876, and was not renewed nor, so far as we can ascertain or believe, were any of its provisions canceled. Dr. Palmer has continued to light and heat the said rooms in accordance with the terms of this expired lease, which, under the circumstances, it was his duty to do.

It might be explained that the lease referred to was simply in continuance of one which Dr. Palmer found in existence upon entering on the duties of surgeon-in-charge, and that he agreed to perform nothing new.

SUPPLEMENTARY SPECIFICATION SECOND.—"Furniture, fixtures, goods, and chattels, belonging to the government or purchased by it out of the appropriation to said hospital, have been placed in the halls, rooms, or apartments occupied by said medical college or the students thereof, or been used exclusively for the exercises, functions, benefit, or advantage of said college, in contravention of law through the procurement or with the knowledge or sanction of said Palmer."

It is not found that any "furniture, fixtures, goods, and chattels belonging to the government or purchased by it, &c., are being used by the medical department of Howard University, with the exception of four stoves used in lieu of steam on the score of economy to carry out the agreement in lease as to heating these premises. (See Dr. Palmer's statement, marked 52.")

SUPPLEMENTARY SPECIFICATION THIRD.—"Students of the Howard University Medical College have been furnished with meals or board at the government expense, defrayed by money diverted from the annual appropriations to the Freedmen's Hospital. An exclusive table, denominated the 'students' table,' was regularly set in an apartment of said hospital, and was furnished and equipped in a proper and attractive manner, in marked contrast to the rude style and repulsive appearance of the patients' and nurses' tables. Choice meats, fish, vegetables, puddings, pies, fruits, and other delicacies were profusely supplied to the favored students, who were intruders at the hospital, and in nowise proper recipients of the government bounty. Students' meals were prepared especially for them by the best cook employed at the hospital, and served at fashionable hours, while the patients and hospital employés, on the contrary, were restricted to scanty and unsuitable food, odiously cooked and served, consisting, to a large extent, of bad provisions, offal, and tainted, putrid, and spoiled provisions, wholly unmerchantable, and the refuse or *débris* of the market. If said medical students paid for the meals or board which were provided for them at the government expense out of the hospital appropriations, it was incumbent on said Palmer to account for and dispose of the receipts in the manner provided by law, which this complainant is informed and believes was not done. If, on the other hand, said students were gratuitously furnished with such meals or board, then said Palmer has wasted, perverted, or misappropriated public property for private use, without compensation, in contravention of law, whereby the government was defrauded, the hospital injured, and the patients deprived of their rights, plundered of their money, and subjected to scanty or unfit sustenance, and the comfort and conveniences which invalids require."

It was found that it had been the custom of this hospital, since its organization, to employ medical students of Howard University as resident students, they performing services as assistants in dispensary, writers of clinics, and various other duties in return for their board. This custom has been continued by Dr. Palmer, who, in common with his predecessor, as well as the other medical officers of the hospital, believed that services fully equivalent in value to the expense incurred were rendered by these students, without whose employment considerable amounts would have been compelled to be expended in the way of salaries.

We do not believe, from the testimony, that any discrimination was made in their favor as to the quality of food, &c., and we are of the opinion, from the testimony of the medical officers, who are the only persons capable of judging, that the services rendered fully compensated for any additional expense incurred for their board.

SUPPLEMENTARY SPECIFICATION FOURTH.—"Under the management of said Palmer, "human remains, offal, and *débris* from the dissecting-rooms of said college have been stealthily removed at night from the college building, and inhumed on the premises of said hospital, in dangerous proximity to the wards, water-pipes, or cistern that furnish the water supply of said hospital; and, furthermore, deceased patients have been surreptitiously transported from the hospital-wards or dead-house to said dissecting-rooms to be operated on, of which corpses some were returned at night to the dead-house in a cut or mangled condition, and the rest, after dissection, were preserved, in part, for skeletons or specimens, and the remains, offal, and *débris* were hidden in hospital grounds or some other place unfit for sepulture."

We find, from the evidence, that in but instance was material from the dissecting-room buried on the hospital premises, and that this was done without the knowledge of the surgeon-in-charge; and it does not appear that any deleterious effect was produced on the inmates or any danger incurred of contaminating the water-supply.

No evidence has been submitted showing that dead bodies have been removed from the dead-house of the hospital to the dissecting-rooms of the medical college.

SUPPLEMENTARY SPECIFICATION FIFTH.—"Government property, appropriated to the use of the Freedmen's Hospital and committed to the official custody of said Palmer, has been disposed of, to a large amount, at public or private sale, and the proceeds thereof have not been accounted for or paid over to the government by said Palmer in the manner prescribed by law."

The amount of government property disposed of by Dr. Palmer has been small, so far as can be ascertained; and we believe that the proceeds of such sales have been properly accounted for, as evidenced by statements herewith, marked 34 and 35.

The specifications having been treated in detail, the charge based thereon may now be considered:

CHARGE.—"I hereby charge Dr. Gideon S. Palmer, surgeon-in-chief of the Freedmen's Hospital, in the city of Washington, with dereliction of duty and official malfeasance; with culpable disregard for the safety, comfort, and welfare of the patients in that institution; with maladministration of its pecuniary affairs, whereby the public money appropriated for the maintenance and support of said hospital has been to a large extent perverted, embezzled, or abstracted; with wrongfully using or permitting others to use public property in his official custody for the benefit of private parties, and with being disqualified to hold the position and exercise the functions of surgeon-in-chief of said Freedmen's Hospital."

FINDING.—From a careful and conscientious consideration of the testimony, the board does not find any of the above charges against Dr. Gideon S. Palmer, surgeon-in-chief of the Freedmen's Hospital, sustained.

CHARGES OF J. R. FRANCIS.

As to the subject-matter embraced in the communication of J. R. Francis, dated January 7, 1877, and August 26, 1877, addressed to Hon. J. M. Langston, and referred by him to the honorable Secretary of the Interior, it may be divided into two separate and distinct classes.

The one relating to Dr. Palmer's conduct as dean of the medical department of Howard University, and with which, therefore, this board cannot deal.

The other class, relating chiefly to Dr. Palmer's conduct as surgeon-in-chief of the Freedmen's Hospital, and charging distinctly that he discriminates in favor of white applicants for admission to the hospital, has been carefully considered, and touching it we have to state that all the inquiries, as well as the reports of admissions, go to show that no such discrimination has been exercised. It is believed that applicants of all classes have been admitted without any question of color, the only requirement being that the applicant should be a proper subject for medical or surgical treatment at the expense of the government.

Mr. Francis being absent from the city, a communication was addressed him October 19, 1877 (copy herewith, marked 38), to which no reply has been received.

The names of the following parties were handed to the board as being willing to

testify, to wit: Mr. O. S. B. Wall, Mr. Sidney McFarland, Mr. Neely, clerk Treasury Department.

Mr. Wall, on being notified, declined to appear, on the ground that he knew nothing of his own knowledge in regard to abuses.

Mr. Sidney McFarland declined on very much the same ground (letter herewith marked 44).

Mr. Neely, to whom was sent an invitation to testify, (copy marked 40), stated to the messenger that he would answer in writing, which he has not done.

SUMMARY.

The board, giving due weight and consideration to everything that has been adduced bearing on the management of the Freedmen's Hospital while under the charge of Dr. Gideon S. Palmer, believes:

That no foundation has existed or does now exist for the charge of maladministration in any respect.

That errors of judgment have been committed there is no doubt, but it is the opinion of the board that Dr. Palmer has conducted the affairs in an honest, conscientious, and efficient manner, with the same care for government property and funds as would be evinced by a thoroughly capable man in the case of his own private property.

In the absence of any definite law or instructions to guide him, he has safely adhered in a great degree to the traditions and precedents of the institution. Where he believed abuses existed, he corrected them, as instanced in the discharge of a chaplain at $100 per month, and the cutting off of rations to the employés, a most expensive custom to the government, which had been handed down from the time of the quasi connection of the hospital with the Army.

It is a notable fact that, with no important exceptions (in point of fact only one or two nurses), the employés have all been connected with the hospital for many years.

No evidence worthy of consideration was adduced reflecting upon the subordinate medical officers, Drs. Gleanan and Purvis, and the fact of their connection with the institution through all its changes for the past twelve or thirteen years is conclusive as to their efficiency and professional fitness for their positions.

The evidence signally fails in proving any misappropriation of public property, the few instances cited in the testimony being satisfactorily shown to have no foundation; the trivial articles mentioned belonging either to private individuals or Howard University.

The custom of the surgeon-in-charge of giving his horse one feed per day is explained by him as due to the large amount of work necessarily performed in the purchases and other matters connected with the outside duties of the institution.

In regard to the experiments on the palmetto leaves, the board, after mature consideration of all the testimony, believes the expense, if any, incurred thereby to have been too trivial for mention; and that if any had been incurred, the responsibility therefor would not rest with Dr. Palmer, who was careful to order that none should be.

The board has conscientiously endeavored to obtain every iota of evidence that could enlighten its members in this investigation, and in submitting the testimony have to explain its voluminous character by this fact. That much of it is irrelevant we are well aware, but from the ignorance and evident bias of many of the witnesses, it was deemed expedient, in view of probable reviewal without the important aid of the presence of the witnesses, that it should be as explicit as the scope of this investigation would permit.

The board, composed as it is of members of the medical profession, has to express the opinion that the Freedmen's Hospital is not a first-class institution. In the first instance, the location and manner of construction of the buildings are bad; they have been in occupancy for something like eight years, and being frame, are liable to absorb and retain noxious germs that experience teaches us may only be dormant for lack of the exciting causes to the development of malignant disease.

Again, the appropriations are not now nor have they been of late years sufficiently large to enable the officers in charge to conduct a model hospital.

From the fact that the inmates as a body are from the lowest and most destitute of all our indigents, and their demands so importunate and numerous, it has begot and fixed the idea that the wards of this institution should be occupied by the very largest number compatible with comfort. This is a laudable feeling, and to the charitable, not biased by the demands of the present advanced state of the medical art, it would seem not to admit of question that the greater the number cared for in the present unquestionably comfortable hospital the greater the good done.

The board does not doubt but that one-half of the present number of inmates might be cared for in accordance with the highest standard of hospital excellence, but it would not nor could it, viewing all the peculiar surroundings, coolly recommend the deprivation to so many of the immense relief now afforded them.

To relieve the surgeon-in-chief of a portion of the great responsibility of managing

an institution where the limits of his powers are so loosely defined, as well as to preclude the possibility of such grave charges being repeated with so little to sustain them, we would recommend the appointment by the honorable Secretary of the Interior of a board of visitors to the Freedmen's Hospital, with the usual powers of such bodies. The board can recommend no great expenditures upon a property not owned by the government, but would suggest the following improvements:

1st. The construction of covered ways from the wards to the dining-room, as also to the water-closets situated outside the wards.

2d. The addition to the furniture in the wards of small tables between the beds, as was the custom in army hospitals.

3d. That when the weather shall permit, the interiors of the wards be renovated by an additional hard coating to the walls, and painting of wainscots, &c.

These improvements may be made at comparatively slight cost, and are proper objects for expenditure from the "hospital" or "surplus" fund of the institution, and, therefore, would necessitate no appropriation of public funds.

The following papers are submitted:

1. Charge and specifications by Robert T. Johnson, dated August 25, 1877.
2. Letter of Hon. J. M. Langston, dated September 17, 1877, inclosing two letters from J. R. Francis.
3. Supplementary specifications by Robert T. Johnson, dated October 18, 1877.
4. Letter of F. E. Felton, dated October 24, 1877, assuming responsibility for charges, &c.
5. Reply of Dr. G. S. Palmer to the charges.
6. Full diet table of Seminary hospital.
7. Full diet table of Freedmen's Hospital.
8. Statement of meats furnished Freedmen's Hospital.
9. Statement of flour furnished Freedmen's Hospital.
10. Statement of sugar, &c., furnished Freedmen's Hospital.
11. Statement of butter, &c., furnished Freedmen's Hospital.
12. Statement of number of patients, Freedmen's Hospital.
13. Copy of lease for fiscal year ending June 30, 1875.
14. Copy of lease for fiscal year ending June 30, 1876.
15. Letter of Robert T. Johnson, dated August 25, 1877.
16. Letter of Robert T. Johnson, dated September 23, 1877.
17. Letter of Robert T. Johnson, dated September 23, 1877.
18. Letter of F. E. Felton, dated September 27, 1877.
19. Letter of Robert T. Johnson, dated October 1, 1877.
20. Letter of Robert T. Johnson, dated October 2, 1877.
21. Letter of Robert T. Johnson, dated October 5, 1877.
22. Letter of Robert T. Johnson, dated October 6, 1877.
23. List of witnesses furnished board October 6, 1877.
24. Letter of "Very careful observer," dated October 7, 1877.
25. Letter Dr. G. S. Palmer, dated October 8, 1877.
26. Letter of Dr. G. S. Palmer, received October 8, 1877.
27. Letter of Dr. G. S. Palmer, dated October 8, 1877.
28. Call of F. E. Felton, dated October 10, 1877.
29. Call of F. E. Felton, dated October 12, 1877.
29½. Piece of paper filed to show size of piece of beefsteak furnished for breakfast.
30. Call of F. E. Felton, dated October 13, 1877.
31. Letter of Mrs. A. O. Talbot.
32. Charge of F. E. Felton against Nancy Stafford, dated October 18, 1877.
33. Letter of Robert T. Johnson, dated ——.
34. Statement of sales by Dr. Palmer, dated October 13, 1877.
35. Statement in relation to "slush fund," by Dr. Glennan, dated October 19, 1877.
36. Statement of amounts received from National Home for Disabled Soldiers for board.
37. Statement of amounts received from District of Columbia Commissioners for board.
38. Copy of letter addressed to J. R. Francis, October 19, 1877.
39. Letter of Robert T. Johnson, dated October 19, 1877.
40. Copy of letter addressed to Mr. Neely, clerk Treasury Department, October 29, 1877.
41. Letter of Allen Black, dated July 25, 1877.
42. Letter of J. H. McGinn, dated October 26, 1877.
43. Admitted draft of proposed agreement between American P. and P. Company and J. J. Calvert.
44. Letter of Sidney McFarland, dated October 29, 1877.
45. Call of F. E. Felton, dated October 30, 1877.
46. Affidavit of Robert F. Wheeler, dated October 22, 1877.
47. Catalogue of Howard University, 1871-'72.

48. Catalogue of Howard University Medical Department, 1877-'78.
49. Copy of Dr. Palmer's letter to O. S. B. Wall, dated October 7, 1876.
50. Letter of Dr. Palmer, dated November 1, 1877.
51. Copy of letter from Dr. E. Goerner to Dr. Purvis, dated September 13, 1877.
52. Statement of furniture, &c., in use by Medical Department, Howard University.
53. Letter of Dr. Palmer, dated November 3, 1877.
54. Letter of F. E. Felton, dated November 3, 1877.
55. Copy of contract for wood made July 21, 1871.
56. Letter of Dr. Palmer, dated November 7, 1877.
57. Statement of J. E. Butler, filed November 9, 1877.
58. Letter from F. E. Felton, dated November 8, 1877.

The stenographer's notes of the evidence are now being transcribed, and we are informed by the clerk having charge that they will be completed within five or six days.

We feel it our duty in concluding this report to bear testimony to the alacrity and willingness with which Dr. G. S. Palmer and his subordinates at the Freedmen's Hospital aided this board in its labors. Every possible facility was extended for a thorough investigation, and the demands made are but slightly evidenced by the documentary testimony herewith.

We are, sir, with much respect, your obedient servants,

T. B. HOOD.
GEO. EWING.
JNO. K. WALSH.

Hon. C. SCHURZ,
Secretary of the Interior.

Exhibit J. A. W., M. McK.

Q. That is the report furnished us by the Interior Department.—A. I said "I believed," not because I doubted it, but I have scarcely time now to look over all this document to see that it is the precise report. I have no doubt it is.

Q. The testimony taken in writing before you does not show the full testimony on which your conclusions were based?—A. No, sir.

Q. Were your conclusions also based to a certain extent upon your observations there?—A. Yes, sir.

Q. In any degree upon your judgment of the credibility of the various witnesses from their appearance and so forth?—A. I should say to a considerable degree.

Q. How soon after the appointment did you proceed with your duties?—A. I think within a week, perhaps within four or five days.

Q. Then it was the last of September that you commenced?—A. Yes, sir; about the end of that month.

Q. What did you find the condition of the hospital when you went to it?—A. I think we found it in as good condition as institutions of that kind ordinarily are, considering the character of the institution and the character of the inmates.

Q. What is the peculiarity of the character of the inmates?—A. They are largely from the lower orders of society; it is a free hospital, taking in all who apply, or rather all who are sent there. They represent as a rule the lower orders of society, the poorer classes, people who live in hovels, badly fed, clothed, and kept in every way.

Q. Do they come in there dirty or clean?—A. Dirty always, or nearly always.

Q. Did you have occasion to examine the food at that time given to the patients?—A. Yes, sir.

Q. Were you present at any meal?—A. Yes, sir; I was present at a good many meals during the course of the investigation. The first thing we did was to inspect the hospital and inspect the kitchens and cooks and the food.

Q. Did you go there at a time breakfast was served by special arrangement?—A. I did not. That was done by Dr. Walsh.

Q. Did you find that the condition of the hospital improved as you proceeded with your investigation, or as a result of it?—A. It did not so occur to any of the committee, I believe; it certainly did not to myself.

Q. After you had completed your investigation and made the report, partly from your observation, partly from written testimony, and partly from other testimony, you handed that report in to the Secretary of the Interior, did you not?—A. Yes, sir; through our secretary. Dr. Walsh acted as secretary of the committee.

Q. I find here a memorandum under the head of "Investigation of Freedmen's Hospital":

Transcript of interview between the Secretary of the Interior and the Assistant Attorney-General of the United States for the Interior Department on the one hand, and the board of commissioners appointed to investigate the Freedmen's Hospital on the other, at the office of the Secretary of the Interior,

stating again the names of those who were present and their conversation [which will be found in the appendix to the testimony]. This seems to be written out very fully. Was a short-hand reporter present?—A. Yes, sir.

Q. Was the object of the interview explained to you before you went?—A. No, sir.

Q. Did you know that a short-hand reporter would be present?—A. No, sir; I was not aware there was to be any short-hand reporter. I became aware of it after observing that our interview was being written down.

Q. Under those circumstances this interview took place?—A. Yes, sir.

Q. Do you know the name of the short-hand reporter who took down this interview?—A. I think it was a Mr. Mitchell.

THOMAS JONES (colored) sworn and examined.

By Mr. SARGENT:

Question. What is your occupation?—Answer. Waiter.

Q. At what hotel are you employed?—A. The Ebbitt House.

Q. Have you ever visited the Freedmen's Hospital?—A. Yes, sir; I have been visiting there quite a while.

Q. For how long?—A. Since last June.

Q. All the time?—A. More or less.

Q. What brings you there?—A. I had a sick friend who was carried there from Fourteenth street in June.

Q. What ward is that friend in?—A. Number 2; Dr. Purvis's.

Q. Is it a male friend?—A. A gentleman.

Q. You have visited the hospital and that ward in order to see this friend?—A. Yes, sir.

Q. How often do you go?—A. During the time he was there sick I used to go every other day, and a while before he died I used to go there every day.

Q. From June to September you were there pretty often?—A. Yes, sir.

Q. What do you know, from what you saw, with regard to that hospital, as to its cleanliness and the treatment of the patients?—A. I saw nothing that I could say was not correct with the hospital during the time I was going there. I saw that everything was clean and decent. The nurses seemed to be as attentive as they could be to the sick. When the doctors came in it seemed they would apply to the sick, and supply all their wants and wishes, so far as I saw of them.

Q. Did this friend of yours complain of the treatment there?—A. Not

at all. I never heard any complaint of his treatment there. He always said he was treated very well, and by the doctors he said he was treated very well, and the nurses also. Dr. Purvis, I believe, paid every attention to him all the time I was going there.

Mrs. AUGUSTUS GUSTHOFF sworn and examined.

By Mr. SARGENT:

Question. Where do you live?—Answer. Seventh street, No. 904.

Q. You are a married lady, I believe?—A. Yes, sir; my husband is here.

Q. Have you ever had occasion to visit the Freedmen's Hospital?—A. O, yes.

Q. What caused you to go there?—A. Last summer my nurse was there nine weeks.

Q. During what months?—A. She was there from the first of May until July.

Q. How often did you go to see her?—A. I cannot say how often. I was there several times. I never noticed how often I was there.

Q. What was her treatment there?—A. The nurse, when she came back, and all through the time, told me she was treated in all kindness, and she had everything she wished. Dr. Palmer was kind to her and Dr. Glennan the same, in every respect, and she was three years in our house before she was taken sick. We were willing, if she wanted anything, to give it to her without any pay for it, if she was satisfied there. We liked her very much. She is a colored girl. She said she could have everything she wanted, and Dr. Palmer came all the time in the evenings late to look at her; everything was just so perfect as she could wish it. She was taken very sick again two months ago. She had the pneumonia then; and our doctor, Dr. Behrend, told her it was more quiet in our house, and better for her than to go back again. I told her so, and she said, "Please send for Dr. Palmer or Dr. Glennan, and if those gentlemen tell me to go there, I will go right away." I sent in the morning and Dr. Glennan came by 12 o'clock, and he told her, "You had better come back again," and she was going there the other day with pleasure. From that time up to now I am going there myself every week, sometimes twice a week, and she is very well satisfied.

Q. What did you notice about the cleanliness of the ward?—A. I was there Monday and Friday, and several times Saturday. I think the place is as clean as anybody can wish it.

Q. Was it so last May and June?—A. It was just the same.

Q. You find no difference between now and then?—A. I cannot see that there is any.

Q. Did you ever see the food that was given to this girl?—A. I was there several times at supper, never at dinner.

Q. Was the food good?—A. Yes; I thought it was good enough for any person that was sick. Another lady was with me, and she said, "My, Mrs. Gusthoff, how well off are the people here; they cannot wish a better home."

Q. Did you ever notice anything about the cleanliness of the bedding?—A. Yes, sir; my girl is so clean, nobody can be more clean than our Mary—the nurse I am speaking of—and she told me all the time that she got all the clean bed-clothing she wished, a good mattress, and everything just clean. She could not stand it there if it was not clean.

Q. You saw for yourself whether it was clean or not?—A. I did.

Q. Were the neighboring beds of the same character?—A. All over they were the same.

AUGUSTUS GUSTHOFF sworn and examined.

By Mr. SARGENT:

Question. You are the husband of the lady who has just testified?—Answer. Yes, sir.

Q. What is your business?—A. I am a grocer. I keep on Seventh street, No. 904.

Q. Have you had occasion to visit the Freedmen's Hospital?—A. I have had, numerous times.

Q. When?—A. I had to visit the hospital before our nurse became sick and was transferred to the hospital. From that time I visited her frequently during the week, sometimes three or four times.

Q. What did you observe with reference to the condition of the hospital?—A. I was in several other hospitals before, and I could not see any difference. The patients seemed to be clean in every respect, as far as I could see.

Q. How were the floors?—A. They were clean.

Q. Were you in any other ward than the one where Mary was?—A. I was in the men's ward. I believe it was in February. We had a little boy who was shot in the field while he was going from my house on business. I went out to the field and found him there, and asked for him to be admitted to the hospital. I immediately got permission, and the hospital wagon was sent out to bring the boy down. As soon as the boy came in Dr. Palmer and several other physicians came in and examined him and pronounced him fatally injured. He was brought out into the men's ward. I do not know the number of it. As far as I could observe there—I did not stay there very long—everything was very neat and clean.

Q. Who was that boy?—A. A boy I hired. He died that evening at six o'clock, I think.

Q. What has been your observation of the treatment of the patients by Dr. Purvis, Dr. Palmer,and Dr. Glennan; kindly or otherwise?—A. I have a store; a good many of the patients and inmates of that hospital come to my store, and I have not heard any complaints. Our nurse said she was very well pleased with her treatment. I often asked her whether she would not have a desire for some particular thing that I could bring her. She said she did not know; she could get everything she liked there. I sometimes brought her a little soup, such as she was used to eating in our house, and she relished it very much.

Q. Did you observe anything about the intercourse between the doctors and the patients, whether it was kind or otherwise, while you were in the hospital?—A. I had never occasion to meet Dr. Palmer while I was there, except when that little boy was hurt; then I saw Dr. Purvis and Dr. Palmer and Dr. Glennan, and several other gentlemen.

ALONZO BELL sworn and examined.

By Mr. SARGENT:

Q. What position do you occupy?—A. Assistant Secretary of the Interior.

Q. Did you have occcasion at any time to visit the Freedmen's Hospital?—A. Yes, sir.

Q. When did you go there?—A. As near as I can remember, some time in August; I cannot fix the date.

Q. Who accompanied you?—A. The Secretary.

Q. Did you give notice to the physicians of your intention to visit it?—A. No sir.

Q. What did you find the condition of the hospital to be?—A. We found it in very good condition; everything seemed to be in order.

Q. Did you notice about the cleanliness of the floors and the beds?—A. I thought they were very clean.

Q. Did you examine the food of the patients?—A. Yes, sir.

Q. What did you find out about that?—A. It seemed to be very good.

Q. Did you taste the bread?—A. I tasted the bread. The bread was sweet; as good as I have in my own house.

By Mr. EATON:

Q. This was before the examination instituted by the department?—A. Before.

By Mr. SARGENT:

Q. Is there any other statement with reference to the matter which you wish to make as to what you found there?—A. No, sir. All I can say is that we went there without giving notice to any one at the hospital, and when we got there we made a pretty thorough inspection of everything that there was there, and found every thing in apparently very good condition.

Q. When Mr. O. S. B. Wall was on the stand he testified with regard to calling upon an Assistant Secretary of the Interior to retain Dr. Palmer. Do you know O. S. B. Wall?—A. Yes, sir.

Q. Are you the gentleman on whom he called with reference to that business, and what was the purpose of the call? In his testimony he says: "I told him there was a sort of movement on foot with reference to Dr. Palmer, and that I hoped he would be retained." He was in doubt whether his conversation was with you or your predecessor, Mr. Gorham, and was in doubt whether it was one year, or two years, or three years ago.—A. If it was two years ago, it must have been General Cowen.

Q. He described him as a man resembling Senator Allison?—A. Mr. Cowen resembles him something more than Mr. Gorham does. He had whiskers upon his face like Mr. Allison.

Q. Gorham was a large, sandy whiskered man?—A. A very large man. I think there is a little similarity between Cowen and Senator Allison.

Q. How long ago did Cowen leave there?—A. He left there in December, 1875.

Q. Who succeeded him?—A. Mr. Gorham.

Q. How long did he remain?—A. Until April 9, 1877.

Q. And you came in then?—A. I came in then.

Q. Then it could not have been to you?—A. No, sir.

Q. And you do not remember any such conversation?—A. I am quite certain he never made any recommendation of that kind to me.

Dr. C. B. PURVIS recalled.

By Mr. SARGENT:

Question. Something has been said in the testimony in regard to the treatment of a man named McGuire, and also a patient by the name of Wilmot. Do you remember those patients?—Answer. Yes, sir.

Q. You can make any statement you wish.—A. I am glad of an opportunity to answer what has been said in reference to those two men, as an impression has gone abroad and been circulated in the papers that I was cruel, and this man McGuire has been spoken of as the person to whom I was so. I may say that about ten years ago McGuire was taken to the Freedmen's Hospital to be treated for rheumatism of one

of his ankle-joints. In a little while caries of the bones developed, and it was evident that the limb would have to be amputated to save his life. He got an idea into his head that I caused those bones to die by tricking him; and I may mention here, by way of parenthesis, that that is not an uncommon thing. We have to-day a woman who thinks she has been tricked and has tadpoles in her arms and head, put there by two physicians formerly connected with the hospital; and I have also under my care to-day a man suffering from frost-bite of the great toe, and about two weeks ago he created some sensation because, in washing his old clothes, there were found in one of his pockets a rag containing some teeth, some toe-nails, and a snake, which he had there to keep off this trick. So that opinion prevails. When this man McGuire was admitted, on his back and chest he had some celoid tumors. He got an idea that those on the chest were brought there by my pinching him. I do not know how he got the impression; in the same way, I presume, as he got that about his foot. I never attached any importance to it. I thought it was quite a joke, and always treated it as such, and used occasionally to joke him about it. I never heard any more about those tumors. He was in my care some years, I should say six or seven years, until he appeared as a witness in a recent investigation. I shall have to go through that to explain this matter as it should be. Then he swore that I brought those tumors on him by scratching him with a lead-pencil over his bald head. I do not know how he got the impression about the lead-pencil (he changed it from pinching to a lead-pencil) other than this: Once I was showing him to some of the students, and they asked me how I would treat such a case, and I traced out an elliptical incision. That may have been it.

To show you that there is nothing in that, the prosecution, as they termed it, brought forth one of my nurses, who was certainly a very good nurse, and a man whom I did think a great deal of, to sustain the assertions made by this man McGuire; and you will observe, if you look over his testimony, that he swears those tumors were on him before I ever saw him, when he bathed him, which is certainly the fact. No tumors of such a character could be brought on by any such means.

McGuire also testified that on one occasion I pulled him from the window, and his testimony is nearly correct in what he states about that matter, though he has not been before you. I understand he said that I once ordered him to be removed from a window, and when the nurse went to remove him he resisted him, and I pulled him away from it. That statement was also made by the nurse Harcomb, who failed to state the entire truth, either before this committee or before the Secretary, who took particular pains to examine him on that point. He said I pulled McGuire from the window on to the floor. That is not true. This man McGuire at times was very violent. On one occasion he was sitting by the window looking into the public street, making a great deal of noise, attracting a good deal of attention. I asked him to desist, and then as he did not, I told my nurse, William Shannon, to remove him. When the nurse went to remove him, he became very violent, and seized the nurse's arm and attempted to bite it. He would have bit him, but as he sprang forward, I caught him by the coat-collar and pulled him back to his seat, and being a very heavy man, weighing I should say over 200 pounds, the little ordinary chair upset, and the only person hurt was myself, as he mashed my foot a little. That is all there was in it. I then transferred him to another ward, as he was not sick at the time. I think that was three years ago.

Q. Something was said by Harcomb about your striking him on the head with a stick.—A. That is entirely false. In looking over Harcomb's testimony I find he makes that such a little trivial matter that he will not say I ever struck McGuire or hurt him. I have not the faintest recollection of even playing with him or even tapping him, as he says, in the gentle manner he describes, which seems to be exceedingly gentle. What I did some five or six years ago in joking with my patients I cannot call to memory; but I doubt the statement for this simple reason: I have in my employ the step-son of Harcomb, and he told his son some three or four days before he was a witness that Felton had got McGuire, or was going to have McGuire swear that Dr. Purvis struck him; and said "that would be a very mean thing; the doctor never struck McGuire in his life." I am also told by——

Q. We will not go into hearsay evidence.—A. Very well. You asked me about Mr. Wilmot. I understand that Mr. Harcomb swore that a man by the name of Wilmot was under my care for two days, and that I did nothing for him, and he died. There is not a word of truth in it. Wilmot was admitted to the hospital on the night of the 21st of December, 1874. I did not remember anything about the case, but Dr. Glennan, when I told him about the testimony of Harcomb, looked up the register, and this (exhibiting) is the book that contains all the prescriptions written monthly.

Q. Is this the book of original entry?—A. Yes, sir. This page (indicating), with this large cross, contains the treatment of Wilmot, showing that he was prescribed for nearly every day up to the day he died. The day before he died I had a consultation with Dr. Glennan. That day I mopped out his throat with nitrate of silver. Very few persons, if any, get over œdema of the glottis. It is a fatal disease. That was his disease. Here are those prescriptions. He died on the 1st of January. I believe Harcomb, in his testimony, admits that his throat was mopped out on Friday, and he died on Saturday. Very likely he died before I got there in the morning. I do not remember it; it is some years ago; but this book contains the prescriptions, and they tally exactly with the time the man was admitted and the time he died, and what I gave him, and Dr. Glennan can corroborate my statement as to his holding consultations with me over that patient.

By Mr. EATON:

Q. How long was he there?—A. He was there from the night of the 21st of December, 1874, until the 1st of January, 1875.

Q. Seven days?—A. About seven days, and he had six prescriptions in that time, the beef-tea and mucilaginous drinks never going on the books. I do not know that it is necessary to state his treatment.

Now, one word in reference to this man Harcomb, to show that he was made to swear. He swore, among other things, during the investigation that I was not his friend, and being cross-questioned by Mr. Riddle, he said I kept him down; and the mode of my keeping him down was that I did not make Dr. Palmer increase his wages. This man Harcomb has an impression that he should receive $40 a month. He has only had that impression since the investigation commenced last October. And yet he admits that for thirteen years he was under my care. I never spoke a cross word to him, and that for twelve years I had attended his family, his first wife and her children, and his second wife, and never charged them anything; that when he was in trouble, having had some difficulty with a woman, I paid his lawyer; another time I plead his case before a magistrate, when he was rearrested for

the same thing. He was evidently made to swear all he did swear. He swore on that same occasion that Dr. Palmer discharged him and took him back again the same day. There is not a particle of truth in it. I was present and heard all the conversation between him and Dr. Palmer, and I know it to be incorrect. I have never been cross or rough or cruel to a single patient during my thirteen years in the Freedmen's Hospital. That can be said and thoroughly substantiated. Dr. Glennan has been my superior officer all that time, and when he comes on the stand I should like to have him testify in reference to it.

By Mr. SARGENT:

Q. Something has been said in reference to the discharge of a man by the name of Potter and of his being received again into the hospital. What was the occasion of that discharge?—A. I discharged Mr. Potter twice. I was out of the city in July, and returned, I think, the 3d day of August. I found Mr. Potter in my ward; I treated him to the best of my ability; he improved. After he had been under my care a little while he wanted me to give him something to do. I assigned him to the mess-house to assist the waiters in putting food on the table. Then, as the hospital was very full, and as he had improved a good deal in health and was going about, I said to him, "I shall have to make some discharges; I wish you would get a place." Said he, "I expect to go to Mr. Moses's, and I think I can get a place in about two weeks." I gave him a suit of clothes, and gave him two weeks to get a place in. At the end of the two weeks he failed to get a place and I discharged him. I did not know at that time that he was at all interested in the investigation *pro* or *con*. He came back the same day with a letter from the Interior Department—I do not know by whom written—saying, "this man should be readmitted, as he is wanted as a witness." He was taken in, and in a few days he became sick again. I may say here that he suffers with tubercular deposits in the lungs, and has some gastric trouble. I took him and treated him, and during the month of November the nurses reported to me that he was in the habit of swearing at them, and swearing at the cooks and the other patients. After I had completed my round in the ward, approaching his bed and prescribing for him, I said to him, "Mr. Potter, I am told that you are very profane in this ward, and that is against my rules." He denied it. I merely cautioned him; told him not to repeat it, or if he did I should have to discharge him. That was on a Friday, I think. On Monday, coming up the steps to my ward, I met the nurse, who said that Mr. Potter had been more profane than usual, and made a great many disparaging remarks about myself as well as the cooks and nurses who were attending him. Mr. Johnson, the man who preferred the charges, was standing near by, within a few feet, and he came to me and said, "What the nurse reports to you is true, sir; you cannot, if you have any self-respect, keep Mr. Potter in this ward." So, after I went in the ward—Mr. Potter was not there—I took down his card, and when he came in I told him I was compelled to do what I did not want to do, discharge him for disobedience. Mr. Felton then became very violent and very insulting, and said he would take issue with me, and he would see the Secretary, and he wanted to know why I did not discharge him. I would have done that, but he took advantage of his condition; he knew that as he was a paralyzed man I could not do it. Mr. Potter went away. I learned in the course of the day that O. S. B. Wall and Mr. McFarland had gone with him to the Secretary to have him returned. Mr. Johnson also went down to see the Secretary of the In-

terior to tell him that I was justifiable in discharging him. I understand from Mr. Johnson that he told the Secretary so; in fact I have been told by others who were present that he did so tell the Secretary. Dr. Palmer, I believe, saw the Secretary the next day also, and told him in reference to it. In three days he was returned, but not to my ward. He comes in the ward at nights, however, to meet Mr. Felton and Mr. Johnson, but does not come when I am there. There was no reason why Potter, while he looks badly, should have been kept in the hospital. There is not a day or night, it matters not how stormy it is, that that man does not go out. During the investigation, though he claimed to be sick, I knew on one occasion that he went out at 10 o'clock at night with Johnson and others in a carriage during a fearful storm, and did not return until 3 o'clock in the morning. In fact, they had their full swing at the hospital at that time, and have now pretty much.

Q. While the committee do not assume to be judges of the proficiency of doctors in their profession, still, where testimony affecting them is given in, it is only just to them that we should direct their attention to it. Robert T. Johnson testified on the day we examined him at the hospital:

I am to-day worse than I was when they commenced to treat me. I insisted that the doctors should examine my rectum. I thought something was wrong with it. I commenced to pass blood the last two or three days. I told the doctor I was not going to suffer longer, and intimated I would get an outside physician. So he examined my rectum and found my bowels all ulcerated; so he told me; and now he is treating me for that. That is all I know about it. I never knew before. He said he thought it was inflammation of the urethra. He was not sure; he only thought it was inflammation of the urethra. I think, though, that they have got to it now, because I was satisfied it was in my rectum.

What do you say with reference to that?—A. That is partly true, and part is not. It is true that on that day I examined his rectum; but I had been treating his rectum some little while before that. Mr. Johnson's disease is not a disease of the rectum at all. He is there a victim to successive attacks of gonorrhea. He has chronic inflammation of the bladder and also an ulcerated condition of the urethra. The condition of the rectum has been brought about by tenesmus—straining; it has caused a varicose condition of the veins of the lower portions of the bowels, which recently has ulcerated. I am still treating him for his bladder trouble. In fact, he has been treated for that trouble by the best physicians in this city. Dr. Garnett, and Dr. Ford Thompson, and Dr. J. Harry Thompson have all treated him for the same purpose. He has with him a number of bougies which they gave him or got him to buy. The way I came to examine his rectum was this: he passed some blood, I think, the morning before your committee came there, and I wished to make an examination of it; but that is only a sequel to his other troubles. I do not believe he will ever recover. He has had gonorrhea, according to his own statement, three times. He tells a very disgusting tale about it. I think he is a used-up man from his excessive venery. There is no question about that. I think this morning or yesterday morning he had a little hemorrhage from the urethra.

Q. You are satisfied that the diagnosis you gave of his treatment is what is necessary in his case?—A. Yes, sir. I have consulted the other physicians about it. Dr. Glennan is attending him as well as myself; we all agree about that. When he first came into the hospital we thought he had what we call a chancre in the urethra, but I soon discovered that was a mistake. He could not have had a chancre there unless he had the constitutional effects of syphilis, which he has not. This is the result of a series of attacks of gonorrhea. He will never recover, I am

pretty sure. I have exhausted my skill and consulted others. I made his case a special study.

Q. Mr. Felton, in his testimony, speaking of what is the matter with him, says that the necessity of his being there rather than at Providence Hospital is to have a nurse to rub him; is that so?—A. No, sir; the rubbing which is now done for him was only resorted to within the last few months. Mr. Felton has paralysis of the lower extremities, paraplegia, and I think his disease is the result of excessive venery. That is my judgment about it. I have a similar case in the hospital of a man by the name of Wallace, who makes a free confession about it; and taking the history of the case, I can come to no other conclusion than that. Mr. Felton also suffers from incontinence of urine. Taking these things together I have no doubt that his disease is the result of his excesses.

Q. What would be the effect of putting rubber-blankets in the bed over the mattress where a person is so afflicted?—A. They smell in a very little while, and becomes very offensive indeed—extremely so.

Q. What would be the effect of patients sleeping on rubber?—A. There has been a variety of opinions about that expressed in the profession. Some think it is injurious to health, and I have seen it written somewhere—I do not remember just now where—that paralysis may be brought about from that cause, but I hardly think so. I know it becomes a matter of annoyance. I am not prepared to say whether it affects the health injuriously or not.

Q. What other remedy is there besides putting rubber between the mattress and the patient?—A. There is none. The treatment is to use rubber for that purpose. Sometimes we use oil-cloth, but that decays very rapidly. The only other course is constant changes of clothing and bedding.

Q. Do you constantly change the beds?—A. Yes, sir; all the time. Mr. Felton wets his bed every night—wets all his clothing—wets on the floor. In fact he is a very filthy man in his habits. He is a great annoyance.

Q. You do change his bed continually?—A. Yes, sir. The nurses take more pains with him than with any other man in my ward.

Q. And as a physician you think that is better than putting rubber under him—better for him?—A. He has a rubber bag for the purpose of catching the water in, but he will not wear it. He purchased that himself. It soon becomes offensive, and he does not like the odor of it.

Q. In the interest of cleanliness, then, it is better to change the bed?—A. Yes, sir; continually. The effluvia he complains of arises from himself.

Q. Has Johnson ever complained to you with reference to his meat being spoiled?—A. No, sir; I had but one conversation with Johnson in reference to that. In the early part of September, after Dr. Palmer returned from his vacation, he received a letter that was from the Interior Department, forwarded to him, I believe by the chief clerk, which had been written by Robert T. Johnson, setting forth that the meat was rotten, &c. He read the letter to me, in fact he gave it for me to read. We could not imagine who this man could be. I said I had a Robert Johnson in my ward; I would go there and see if he was the man. I went there and called him into a side room and showed him the letter and asked if he wrote it. He said "yes." I then said to him, "Mr. Johnson, you know there is not a word of truth in it; if you had any spoiled meat why did you not call my attention to it." Said he, "I did not choose to." Then he was a little saucy about it for the moment. I reported to Dr. Palmer. He came there and brought Dr. Glennan with

him, and we had a talk about it. Dr. Glennan asked him who saw this spoiled meat besides himself. He said a man by the name of Bell and the nurse. He referred to sour bread in the letter. We called in the man Bell and the nurse Lucius Harcomb. Harcomb said that one or two pieces of meat were a little tainted during the summer, but as it was a matter of minor importance he did not think it was worth while to call my attention to it. Dr. Palmer then asked him "what instructions have you from Dr. Purvis?" Said he, "he told me always to report to him everything that went wrong in the ward." Johnson then attempted to browbeat the man by saying "O, you are afraid to tell the truth; you are afraid the doctor will discharge you!" Dr. Palmer replied, "O, no; I will not discharge Lucius for telling me what was going on wrong; I would discharge him if he would not tell me." That was the time Lucius said the doctor discharged him, and that was the only conversation I had with him about it.

Q. Did Johnson make any statement to you about how Calvert came to be a witness for him?—A. Yes, sir; it came about in this way. There was a man in my ward named William Johnson who had hip-joint disease, as it is called, caries of the pelvis, caries of the head of the femur. He died. His wife used to go there every day to see him. This Robert Johnson made the acquaintance of his wife during her visits there. During the month of December, I think it was, she came to see me, and wanted me to prescribe for her. He saw her come in and go away. He sent for me to go in the ward, he wanted to see me. When I went there I found him a good deal excited. Said he, "Did Dr. Palmer keep Mrs. Johnson from coming here to see me?" Said I, "No." Said he, "I sent for you; I thought you would tell me the truth; he stopped Clagett the other day, and I thought he would stop this woman." Said I, "O, no, she came to see me, not you." "Well," said he, "That satisfies me, doctor, I am going down to see the Secretary about you; I have done you an injustice; I have been talking to Mr. Wall." Said I, "Have you? I did not know anything about it." "Yes," said he, "I find that I did not treat you properly; I am going to tell the Secretary so. These men here swore to things not true." Said I, "Did you do that? There is Mr. Calvert. He declared to me that before he would swear for any of you fellows, you would have to take up there by his force pump and make him do it." Said he, "He was not going to swear at first, but I will tell you; I told Calvert that I would go to see Secretary Schurz; I did go, and he gave me a letter which I brought up and read to Calvert, which said he should not be disturbed in his place; and then he was not only willing to swear, but he told us a great many other things that we never heard of before."

Q. Something has been said about Samuel Stewart being compelled to testify; what do you know about that?—A. I do not know as to that. Mr. Stewart made an affidavit before Mr. Cook in reference to the diet, cleanliness of the ward, &c. He was admitted to the hospital about two years ago, suffering from what I supposed to be scrofula. He got very much better, and I had him employed as an assistant nurse; but the very moment he got some money—as a holiday came on—he went out and contracted syphilis. Then I discharged him, and he has not been feeling very happy since. But he made the affidavit I have just referred to, and then he made another afterward denying that he knew what he swore to. Since you gentlemen have undertaken to investigate the hospital, he called me into the room one evening and commenced to cry; and said he, "Doctor, for God's sake, don't kill me; I did not mean to tell what was not true about you; here I am passing

blood from my bowels; Mr. Johnson has been passing blood from his bowels, and I am afraid you are going to kill me." "Why," said I, "nonsense, man." "Well," said he, "you wrote some medicine for me the other day to make me sleep, and it read on the bottle, 'take half at once, and if you do not rest in the course of two hours, take the other half;' I have never taken it, because it had in addition to that 'and this half will put you to sleep and you will never wake up any more." Going into the ward the next morning, I asked him for that bottle of medicine to see if any one, playfully, had written such a thing on it, and I found it was not on it. "Who told you such a thing?" I asked. Said he, "Mr. Felton told me; he read it to me; I cannot read, and he told me that was on the bottle"; and so it really seems that man believed I was going to kill him.

Q. For swearing against the hospital?—A. Only partly swearing against the hospital. As far as I was concerned, he was quite complimentary, I believe.

Q. Did Mr. Calvert ever do any work for you?—A. In 1876 Mr. Calvert did work for me about two hours. I had a water-pipe that ran along the ceiling of my cellar. I dug a trench with the assistance of my young man, and I wanted to have the pipe run under ground, as it would freeze where it was. I asked Mr. Calvert to come and unscrew it—it merely had to be unscrewed at each end—which he did. He came one night and unscrewed it, but did not finish it because I had not something in the shape of a U—I do not know what you call it—a screw to go on the end of it. So he deferred it until the next night. He came about half-past four o'clock each time, about the time I eat my dinner, and staid about an hour each time. I offered to pay him. He said he would not take any pay, "you prescribed for me and my family when they went to the hospital." So I felt grateful to the man, and in the course of a few days I bought two turkeys, and I took one out and presented it to Mr. Calvert for what he had done for me. He was not over two hours at my house. I was asking my wife about it the other day, and she said she thought it was one hour. I think it was nearly two hours.

Q. What do you know about any neglect to repair water-closets?—A. When Dr. Palmer was away last August, he left Dr. Glennan and myself in charge of the hospital. I took charge of Dr. Palmer's ward as well as my own. The water-closet in my ward was out of repair, and also one in Dr. Palmer's ward got out of order, and also part of the boiler arrangement in the kitchen. I ordered Mr. Calvert to fix those water-closets several times, and to fix the pipe in the kitchen. He took no notice of my order. I was virtually, I supposed, in charge of the hospital at that time. After giving him several orders, which he neglected, I asked Dr. Glennan to take the matter in hand, or if he did not I would have to go to the Secretary and get the man relieved. Dr. Glennan did take it in hand, and advised that he had better do it for his own sake; and at last he did fix the water-closet in Dr. Palmer's ward, and did fix the pipe in the kitchen; but my ward he neglected, but he fixed it a little while after Dr. Palmer returned. I had a very few patients at that time who needed to use that water-closet; I had another below it, so I had to lock it up. It is not true, as stated, that the water-closet could not be used all the time for the month of September and part of October; it was locked up by my order. It is not an uncommon thing for me to order my water-closet to be locked up. I have to drive a certain class of patients down stairs, who are too lazy to go down stairs, and prefer to use the water-closet. The patients that are confined to

their beds could not use that water-closet anyway, and, at that time, I had quite a number in bed. They use the bed-pans and use the buckets. I do not think I had over three or four persons that needed to use that water-closet, which was locked up. We often have to do that to get them in the habit of going down stairs. Nearly every man in the place would use it if we did not lock it, and stand on the seats and make it very filthy. That is not uncommon.

Q. I think something has been said about your having had a cow there, and having sold it, and of its having been fed at government expense while there. What is the truth about that?—A. I had a cow there. I testified about her before. I sold that cow on the 4th of May, though I see in the testimony of Mr. Johnson he says that, when he came, there were three or four cows there, and he came on the 11th of July. My cow was sold on the 4th day of May and removed on the 7th. She never ate a morsel of government feed. Dr. Glennan has most of the receipts for the feed we purchased from the feed-stores near the hospital, and some I bought in the market.

Q. Do you want to say anything further with reference to the bones dug up by Banks?—A. I saw in the newspapers I was present when Banks dug up a cart-load of bones, and the policemen were there, and Dr. Keene, of the board of health, and the coroner. I must state that Dr. Palmer did not know, neither did any of us know, that there were any bones buried on the place even for students, and he decided to have every place dug up unearthed and the bones taken away, and he ordered me to superintend it, and I did. There were three places in which bones had been buried. I staid there and assisted Banks to take them up. No one saw what we took up, because I held the little bag myself, and did not allow a patient to come around. I did not want to create any excitement. There were a few long bones belonging, as I have understood since, to one of the lady students who graduated a year or two ago, not enough to fill an ordinary market-basket. This "cart-load" is a pure fabrication.

Q. Do you remember the visit of Secretary Schurz and Assistant Secretary Bell to the institution?—A. Yes, sir. During the middle of August last they came out about twelve o'clock one day, to my surprise, and said they wanted to see the hospital—wanted to see everything about it. I showed them from top to bottom—a great many patients were about—all the water-closets, all the store-rooms, packing-rooms, and everything.

Q. The food, &c.?—A. Yes, sir. Mr. Schurz took down the bread, pulled a piece of it from the middle of the loaf, ate it, and said to Mr. Bell, in my presence, "That is good bread." He looked also at a piece of meat on the table. He came too late to see the dinner; they were just through. He did not find us in our cleanest time. The next day I went to see Assistant Secretary Bell and met Mr. Schurz also. He was very cordial and polite. I asked Mr. Bell what brought him there. He said they had received a letter from a man named Freas, and asked me if I knew anything about him. "Yes, sir," I said, "I discharged him three times; he had three discharges, but came back; he would get drunk. The last time he jumped the fence and never came back." I asked how they were pleased with the hospital. The Assistant Secretary said he was very much pleased with the hospital; he was thoroughly and completely disabused. That was all that was said.

Q. It was testified by Mr. Felton that A. G. Wall was a drunken man, and was discharged from the hospital?—A. That is not true. Mr. Wall resigned of his own accord to devote himself to the milk business. His

wife spoke to me some weeks before that, saying that he intended to resign, and he did resign. Dr. Palmer has his resignation.

Q. Is he a man who gets drunk?—A. No, sir. I have known him once or twice to drink some liquor, but never knew him to be a drunken man.

Q. He was not discharged for any reason?—A. He was not discharged for any reason, but resigned himself.

Q. Do you know O. S. B. Wall?—A. Very well.

Q. He testifies in reference to several conversations with you and about you. Did you have any conversations with him?—A. A good many about the hospital.

Q. Do you remember a conversation with him in June last in regard to Dr. Palmer?—A. Yes, sir. On my way to the hospital one morning in June, I think the latter part of June, he stopped me—my driver was with me—and said he, "Doctor, I want to thank you for the many little acts of kindness you have done for me; but for your friend there, Palmer, I intend to go for him and break him up; he reduced the price of my milk yesterday from 38 to 35 cents, and I intend to go for him." I remarked, in a jocular manner, "You are harmless, Wall, you can't do much hurt." It was in June I had that conversation.

Q. In your conversations with him did you have any talk with him as to the parties that furnished meat to the hospital?—A. Yes, sir.

Q. What was it?—A. I think a few weeks after Dr. Palmer was appointed he stopped me on my way to the hospital and had a talk about the patronage. He wanted the privilege of furnishing the meat, the groceries, and the wood, and he offered to make it a profitable thing to me if I would control Dr. Palmer. There was at that time, there seems to be yet, an impression that I could control the action of Dr. Palmer. It is news to me. I never pretended it. He said to me, "You can get your meat for nothing and your groceries for nothing if you do that." He said that three times during that year. The last conversation I had with him about it was in July, I think the 4th day of July last. He stopped me and said, "Why didn't you give your friend Eggleston, the butcher there, the contract for meat? You profess to be a great friend of Eggleston." Said I, "So I am; but my friend did not happen to bid low enough; that was the reason he did not get it."

Q. Dr. Augusta made a statement which seemed to imply cruelty to a lying-in woman at the hospital. He stated that he did not know the name of the woman. The case that he referred to and described was of a woman in convulsions, where the child was taken from her by violence, a roll of cloth being put around the neck and your putting your foot against the person of the woman and pulling the child out, when he recommended cutting the child to pieces. Do you remember any such case?—A. Yes, sir; I heard his testimony. I may say in a general way that the whole statement was gratuitous. There is a grain of truth in it merely. I think it is about a year ago, I should say in the month of February last year, when I was called in the middle of the night to go to the Freedmen's Hospital to attend a patient, a woman in confinement. I took my instruments with me and went out there. I spent the rest of the night with that woman. I had a consultation I think that night with Dr. Glennan, but I shall not be too sure about that, and a consultation with Professor Graham, who happened to be at the hospital that evening lecturing. We did all we could to relieve the women. She was about coming down with labor. The convulsions, however, did not cease. It was in Dr. Palmer's ward; and she was Dr. Palmer's patient, in fact, but we did not send for him, because we could manage the case with-

out him. Next morning he came, and Dr. Palmer thought it best to deliver the woman at once, which, after consulting with Dr. Glennan and myself, we agreed to. We thought she should be delivered. The *os uteri* was dilated; and that was the proper treatment. While Dr. Palmer was applying the forceps, Dr. Augusta, who was always late at the hospital, came in and merely looked on. The statement that he made the suggestion that we destroy the child or perform craniotomy is news to me. I never heard it until I heard him swear to it here the other day. But if he had made such a suggestion we certainly should have taken no notice of it, because no man in his senses would think of performing craniotomy when you can deliver a woman by the forceps. What he said about the forceps slipping is not exactly correct. I had left there a new pair of forceps, supposed to be an improved forceps, and Dr. Palmer applied them. He was not long at it. It is always a little trouble to apply a pair of forceps, especially as high up as that child was. They sprang. Then he took them off and applied another pair of forceps, which we had in the hospital, and delivered the child's head. The operation is considered, as a rule, over when the head of the child is delivered. It requires no force whatever to deliver the body, as a rule. In the vast majority of cases—I should say in ninety-nine cases out of a hundred—the child would be born without any one touching it. It requires no force. I was standing behind Dr. Palmer; Dr. Glennan was up supporting the woman, and I had a towel in my hand. I merely received the child in the towel. The head was slimy. I took hold of it—it required no force whatever—and merely received the body. Dr. Palmer really delivered the child. Dr. Augusta's statement is that when the forceps slipped I applied the towel to the neck of the child and then put my foot against the body of the woman, and with my strength delivered her. In the first place it is a physical impossibility to put a towel, or anything else, around the head of a child *in utero* in the cavity of the pelvis. After the head of a child is delivered there is no necessity for any force. As to his recommending craniotomy, as I have just said, that was a silly proposition which would not be justified by any one; in fact, it would have been malpractice to attempt to destroy a child. Anticipating that that question would be asked, as I was present and heard his testimony, I have brought with me two authorities. I could have brought more. I have here the work of Dr. Bedford, who is the leading obstetrician of this country, professor of obstetrics in the University of New York. I have also the work of Dr. Churchill, who is the leading obstetrician of the English school. These two works are authority.

Q. Let the committee understand what they say about that.—A. I will first give you Dr. Churchill's statistics. It will take but a moment to read what he says in reference to craniotomy.

Now, in craniotomy, all the children are destroyed, and one in five of the mothers is lost, whereas we have seen that by the forceps we save four out of five of the children, and twenty out of twenty-one of the mothers. If we had more minute reports, the success would undoubtedly appear much greater.

The special *advantages* of the forceps are said to be—

1. That they are easily applied.
2. That their powers are calculated to attain the object for which they are used.
3. That they do this by imitating the natural powers.
4. That they aid the expulsive efforts of the uterus better than any other instrument, and supply their place, which no other instrument can.
5. That they are less liable to slip than the vectis.
6. That they are attended with less fatal consequences than the perforator and crotchet.

And then he speaks about the blessings of the discovery of the forceps. I may say that Sir James Simpson also is so much in love with the

forceps that he thinks craniotomy should be abandoned altogether, although Churchill and others differ with him as to that. Dr. Bedford has such radical notions about that that I would like to read what he says; it is only a few lines:

In truth, it needs some nerve, and, for a man of high moral feeling, much evidence as to the necessity of the operation, before he can bring himself to the perpetration of an act which requires for his own peace of mind the fullest justification. He who would wantonly thrust an instrument of death into the brain of a living fœtus would not scruple, under the mantle of night, to use the stiletto of the assassin; and yet how frequently has the child been recklessly torn piecemeal from its mother's womb, and its fragments held up to the contemplation of the astonished and ignorant spectators as testimony undoubted of the operator's skill! O, could the grave speak, how eloquent, how damning to the character of those who speculate in human life would be its declarations! Such, gentlemen, was my language in 1844; and now, in 1861, with a more matured judgment and a riper experience, I am, if possible, the more strengthened in my convictions.

Speaking of the case of puerperal convulsions, he says:

When it is practicable, there can be no doubt that the important indication—indeed, the very best practice in convulsions at the time of labor, is to deliver the patient. Some authors recommend *version* when the head is at the superior strait, and the mouth of the womb in a condition to justify this operation. With this view, under certain restrictions, I coincide. If you will permit me to express a positive and emphatic opinion on this point, it is, *that under no circumstances should version be attemped in puerperal convulsions, unless the patient be previously placed under the full influence of anæsthesia*, and for the following reasons: 1. The very introduction of the hand into the uterus constitutes an exciting cause, which would almost certainly evoke the convulsive paroxysm; 2. The manipulations necessary to accomplish the delivery would so irritate the organ as to subject, through a repetition of the convulsion, the life of the mother to the most serious peril.

The two next alternatives are the *forceps* and *crotchet*.

And what he says about crochet craniotomy I have just read. He might have added that the danger in using version also would be the rupture of the uterus. This woman had puerperal convulsions, and she was in a comatose condition; and Dr. Guizot, the leading French authority, says we should always use forceps on such occasions. I may say here, as Dr. Augusta mentioned that the woman died, that one woman out of four that have puerperal convulsions always dies. There is about one woman in 500 that has the convulsions. Of those who have the convulsions from uremic poison, I do not know that any are saved; if so, the percentage is very small. Indeed, the great majority of puerperal convulsions do not result always from albuminuria or Bright's disease. The uremic poison, which is the secret of the condition, results from a variety of causes, such as foreign substances, overloaded stomach, reflex action, irritation of the nervous system, &c., but this woman had uremic poison, and she died necessarily. I may say, if I be allowed, as that statement of Dr. Augusta was circulated, as it seemed to me, with a great deal of zeal by the newspapers, who appear to take particular pleasure in publishing all that is bad and very little that is good in the investigation, and to the injury of my reputation, that I think a man who lives in a glass house should not throw stones. Last year he wanted Dr. Palmer to castrate a simple-minded man that we had there, because he was addicted to onanism. Of course, Dr. Palmer did not take any notice of the suggestion. The patient had been there some years. It seems to me that a man who makes the blunders that he does should not place his opinion in opposition to three physicians and the best authorities in the land, because surely, while he was making that statement, he could not have forgotten the fact that some five or six years ago he brought a private patient to the Freedmen's Hospital to operate upon her in the presence of the class for an ovarian tumor. He operated.

The tumor proved not to be an ovarian tumor, but a fibrous tumor of the uterus; and the woman never got off that operating table. I do not say this with any view of injuring Dr. Augusta, but it seems to me that it not only was unkind, but such a person was not the one to come here to make a false statement, because in this very case in which he recommended claniotomy, he never made an examination of the patient. I think Dr. Palmer and Dr. Glennan will testify to that fact. Dr. Palmer was operating when he came in. I do not know whether there was a deformity of the pelvis or anything about it. He came here to state that. He thought it would help him to accomplish the object he had in view.

Q. Did you ever have any conversation with Dr. Augusta in reference to the removal of Dr. Palmer?—A. Yes, sir. He came to my house on the second or third day of July, and said to me, "Dr. Purvis, you and I ought to have control of that hospital. I want you to run for Dr. Palmer's position, and I ought to be your assistant." ' I then said to Dr. Augusta that if there was to be any change I thought I was entitled to promotion. I had been there a long while and I was seeking to overcome the prejudice that existed in this community against me on account of my color; but I was entirely opposed to the removal of Dr. Palmer unless there was some cause for it, and I did not know any cause for Dr. Palmer's removal. I thought he was the right man in the right place. He came back in the course of a few days and said, "Well, if you won't run for it, I am going to," and then he went away and got up a petition, and went to see Mr. Douglass, Mr. John F. Cook, and Professor Wilson, and they all refused to sign it. Mr. Douglass said to him, "I want to talk with Dr. Purvis about that. I should like to meet Dr. Purvis at your house, with Mr. Langston, who seems to be very anxious to assist Dr. Augusta."

Q. You will speak of matters within your knowledge, unless you heard them from Dr. Augusta.—A. Dr. Augusta came to my house and said Mr. Douglass wanted to meet me at his house with Mr. Langston. I went there and met Mr. Langston. He staid there a few minutes, got tired of waiting for Mr. Douglass, and went away. In a few minutes Mr. Douglass came in, and the doctor told what he wanted. He said that Dr. Palmer did not appoint as many colored people to positions in the hospital as he should. He went on to state that he thought he ought to have the position, as I was not going to run against Dr. Palmer; that Dr. Reyburn was trying to get back, and he thought he ought to have it in preference to Dr. Reyburn. Mr. Douglass heard him through, and then asked me what I had to say about it. I told him that I did not think Dr. Palmer ought to be removed; there was no reason for appointing Dr. Augusta, and I was opposed to it. I said, "The statement that Dr. Augusta makes is not quite true; there were four physicians during the year, two colored ones and two white. We had a white clerk, who was the son of one of our graduates. We had a colored matron, and all the employés on the place were colored." So Mr. Douglass said to him, "Doctor, I am entirely opposed to any such arrangement," and he retired. Since then I have not had any conversation with him about it.

Q. Did you understand Dr. Augusta as claiming that there was any discrimination in the admission of people to the hospital on the ground of color?

A. I heard him say that the other day; but it is certainly not true. I should like to make a statement about that. There were seven hundred and sixty-three patients treated last year in the Freedmen's Hospital.

There were three hundred and seventy-one colored patients admitted and one hundred and twenty-nine white. There were some few white persons left over. I should say there were altogether about six hundred colored persons treated in the hospital and about one hundred and sixty whites, or enough to make up the seven hundred and sixty-three. I may also say that there were over 3,000 prescriptions written last year by Dr. Augusta for outdoor patients. We are not bound to write a single prescription for outdoor patients. That is merely a kindness on the part of Dr. Palmer, because the city ward physicians were abolished. There were not a hundred of these prescriptions given to white people. This year I have written myself not quite nineteen hundred, and I have not written fifty prescriptions for white persons. They are prescribed for, however, if they come there. That statement is about like the rest.

Q. Dr. Augusta seemed to think that you and Dr. Palmer had him unfairly discharged from the chair of anatomy in the university, and thereby accounted for some of the action against Dr. Palmer in this case. What is the truth in reference to that?—A. That is not true. Dr. Augusta was professor of anatomy about eight years. We always had some trouble every spring with the class about to graduate. They grumbled at the doctor's mode of teaching. In 1875 the faculty had a meeting. We had that year a rebellion on the part of the graduating class. They refused to be examined, or rather to be re-examined by Dr. Augusta; they had failed in the examination. The faculty had a meeting, and we wanted Dr. Augusta to exchange with Dr. Lyon, and to take the chair of materia medica. He declined to do so. The question of harmonizing the faculty was considered at that meeting. We then appointed a committee, consisting of Drs. Baxter, Augusta, and Lamb, for the purpose of coming to some understanding. They met again on the 12th of May, and reported that they failed to come to any understanding, and asked to be discharged. It was so ordered, and, on motion, the faculty voted that "the chairs be allowed to remain as they are for the present year." We could not get Dr. Augusta to consent to the change. We did not want to discharge him, but wanted him to take another chair. We tried the same thing a year ago last September, and then elected an assistant to the chair, Dr. Brackett, a young man of decided ability, and he refused to receive him. There came to be so much excitement about it on the part of the students, that this year we decided to recommend to the trustees of the university that he be changed to the other chair, which we did, and he refused to accept it. I may say here, however, that, at the faculty meeting, we said to Dr. Augusta, "You must be changed from the chair of anatomy; you can have any other chair you please. There is so much discontent on the part of the students this year that you must change." He would not do it, and we changed him, and then he refused to lecture any longer.

Q. Do you know Tom Johnson, a patient in the hospital, who is under some restraint?—A. Yes, sir.

Q. How long has he been there?—A. I should say eight or ten years. I do not remember.

Q. Was he one of the original inmates?—A. One of the old patients. He is a harmless person.

Q. He came in from the freedmen's camp?—A. Yes, sir. He belonged there, one of the original inmates.

Q. Is he accustomed to try to get into the beds of the boys, &c.?—A. He used to do that some time ago. He has not been under my care for three years.

Q. What precautions are taken to keep him from committing acts upon others?—A. The nurse restrains him. We lock him sometimes in the room at the end of the ward. He is often put in there and kept there.

Q. Is there any other place in the world where that being can go, if he is turned out?—A. No place that I know of. I do not think they would take him anywhere. He is perfectly harmless. He does not do any harm to anybody. I never heard of his hurting the boys. He used to tease them sometimes, but he does not do that now, because the boys are as large as he is, and he is quite a coward.

Q. You do the best you can?—A. Yes, sir. I do not think there is any trouble about it.

Dr. ROBERT REYBURN recalled.

By Mr. SARGENT:

Question. I have here a monthly statement of the amount of flour used in the Freedmen's Hospital when you were in charge of it. Examine the list, if you please. [Handing list to the witness.] Explain how a larger number of barrels were used some months in proportion to the number of patients than others; for instance, why, in some months, there seems to be a slightly less number of patients and a slightly greater amount of flour used, and another month more patients and the reverse, and so on. How do you explain that?—Answer. In the first place, as a rule, there is more flour used in the winter months than in the summer months; that is, the men eat more in cold weather; and, of course, with such a number of persons that makes quite a difference. Secondly, it depends a good deal on the character of the patients. Where many persons on low diet, taking beef-tea and things of that kind, they eat very little solid food; and, of course, in that way you will use less flour, and the consumption of it will be less. If your patients that are brought in are brought in as very often patients are brought in there, that are not very sick, many of the colored people who come in would get well outside, except that they have not the means of nourishment, of being cared for; and that class, of course, really require very full diet, and receive it; and, of course, there is quite an amount of food consumed in that way.

Q. Your explanation would be, then, that a less number of patients might use a larger amount of flour owing to their requiring more flour for their particular ailments than even a larger number when of a different character of patients?—A. Yes, sir.

Q. And that would vary from month to month?—A. Yes, sir; if we had a number of cases of typhoid fever, they would not use so much solid food, but liquid food. Another way would be this, for the same system was adopted while I was in charge of baking the flour outside: sometimes at the end of the month there would be a little balance owing to the baker, or perhaps he might want the flour, and we would send the flour a little in advance of the first of the month. We would order it near the end of the month, and about the 28th of the month five barrels would be sent to him, and they would lap over to the next month.

Q. That would account for such irregularities, comparing one month with another, or even the number of patients?—A. Exactly; and then in winter, as a rule, the patients consume more, and in feeding two hundred or three hundred persons that would make quite a difference.

Q. Did you consider it an economical way of supplying bread to the hospital to have it baked outside, pound for pound?—A. Yes, sir.

Q. You found it to be so in your experience?—A. When we adopted that plan, it was after, for several years, we had received bread from the commissary. After that was stopped we had to provide our own bread. We found, on calculating, that it would be much less expensive to have it done in this way than to employ a baker, build an oven, and have fuel and labor to attend to it. I think so still. It is decidedly economical.

Q. What authority had you for issuing to the children of the orphan asylum flour for their whole ration, or a large portion of the ration?—A. I have been looking over my papers, and I have found a copy of an order containing the law. You can refer to the law. This law was passed at my own request. I saw at that time Senator Wilson, late Vice-President. We were left in a dilemma, and the hospital would have been closed without the passage of this law, which you can easily refer to. The order reads:

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
Washington, April 21, 1869.

[GENERAL ORDERS No. 39.]

The following acts and resolution of Congress are published for the information and guidance of all concerned:

[PUBLIC—No. 10.]

AN ACT relating to freedmen's hospitals.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the Bureau of Refugees and Freedmen is authorized and directed to continue the freedmen's hospitals at Richmond, Virginia; Vicksburg, Mississippi; and in the District of Columbia, including the asylum for aged and infirm freedmen and for orphan children: *Provided,* That the expense thereof shall be paid by the Commissioner out of moneys heretofore appropriated for the use of the bureau: *And provided further,* That said hospitals shall be discontinued as soon as may be practicable in the discretion of the President of the United States.

Approved, April 7, 1869.

* * * * * * *

By order of the Secretary of War.

E. D. TOWNSEND,
Adjutant-General.

I have here a copy of the manual issued to the officers of the Freedmen's Bureau, during the existence of the bureau, special order, War Department, dated January 21, 1867. Article 5 gives the ration, which it is not necessary to read, and then goes on to say:

The Subsistence Department, as may be most convenient or least expensive to it, and according to the condition and amount of its supplies, shall determine whether soft bread, or flour, or other component parts of the ration as equivalents, shall be issued.

In the issue of rations, as in the Army, the ration only composed certain parts of the food. In order to get other parts of the food, we had to draw the full amount of the ration and exchange that. For instance, butter is not in the ration, and if you wanted butter you had to draw an overplus you did not want of another article and exchange it for that. As we could not do that under the organization because the Commissary Department finally stopped that, they would not allow us to draw rations any more after the War Department ceased to issue to us, then we would use what we required in those articles, and the balance that was undrawn would go to purchase the other articles that we needed. This was the authority under which it was done.

Q. A large part of the ration is flour?—A. Yes, sir. We had authority,

provided the same value was given. It might be cheaper, for instance, in a certain part of the country to buy fresh beef than pork. We were allowed to substitute, at the same cost, any other meat we chose. We used to buy ham in the same way as a substitute for pork, so that we did not exceed the value of the ration at the time.

Q. What authority had you for including those children among the patients of the hospital?—A. This law, which mentions them specially, and I am cognizant of the fact, because I was the means of having the law passed—

Including the Asylum for Aged and Infirm Freedmen and for Orphan Children.

It was specially included in the law.

Q. Do you remember a man in the hospital by the name of Tom Johnson, an idiotic man, while you were there?—A. Yes, sir; very well.

Q. What were his peculiarities?—A. He was an idiot, and required constant looking after. He was troublesome, but never violent. He would wander about, and had to be looked after.

Q. Do you know how he came there?—A. My impression is that he came as one of the patients from Richmond.

Q. Is he a colored man?—A. Yes, sir.

Q. What is his age?—A. He must be, I suppose, 26 or 27 now. He has been there a number of years.

Q. Was he kept there under the Surgeon-General?—A. Yes, sir.

Q. Do you know any place where that being could go to if he was turned out of that institution?—A. No, sir; for this reason: the insane asylum here requires certificates from the physicians who send patients there that the men became insane while residents of this District, and we were unable to give an affidavit of that kind in regard to this patient, because he was idiotic when he came here.

Q. What would become of him if he were turned out in the street?—A. There is no place he could go to, as I suppose, unless the city authorities would take charge of him. There is no institution he has any claim on.

Q. The city authorities would have to return him to the hospital, would they not?—A. Certainly.

Dr. P. GLENNAN recalled.

By Mr. SARGENT:

Question. Have you read the testimony of Dr. Augusta with reference to a confinement case in the hospital?—Answer. Not the whole of it. The substance of it I understand.

Q. Make any statement you wish about that.—A. In regard to that confinement case, I was present. Dr. Palmer applied the forceps to deliver the patient.

By Mr. EATON:

Q. Whose patient was the woman?—A. Dr. Palmer's patient. Dr. Palmer applied the forceps and delivered the woman actually, that is the head, which completed the main part of the operation; and Dr. Purvis merely received the child; in fact, it required no force to deliver the body.

Q. Was any force used by him at all?—A. I think not. It was not necessary. When the head was delivered by means of the forceps the difficult part of the operation was completed.

Q. Now state generally as to Dr. Purvis's treatment of patients that fell under his charge?—A. As far as my observation goes, and I have seen him a long time, he is always kind and attentive to his patients.

I never heard of his being cruel to a patient. I do not believe it at all. I have been there with him a long time.

Q. Did you hear it for the first time in this investigation?—A. Yes, sir; for the first time since last October. There is no foundation for it whatever.

Q. No complaint was ever made to you by any patient?—A. No, sir.

By Mr. SARGENT:

Q. Have you refused at any time to receive a patient transferred to your ward?—A. No, sir. I removed the man referred to of my own accord, without consulting Dr. Augusta. One Sunday afternoon, when Dr. Augusta was not there, the man was very sick; at least he had an abscess on his leg. I do not remember the day of the month now, of course, but it was on a Sunday afternoon. I had the patient removed to my ward, and he was kept there until he got better, and then was sent back again to Dr. Augusta's ward. In fact, other patients have been removed from that ward to the sick ward proper before and since. It is not at all unusual to do that.

Dr. G. S. PALMER recalled:

By Mr. SARGENT:

Question. You are at liberty to make any statement with reference to the matters which have been in testimony before the committee. After the close of the examination of patients and officers of the hospital (during which time you were not present), I requested you to be here when others were testifying, and I have also placed in your hands the testimony as it has been printed. Now, you can make any statement that you see fit that you think should be made in justice to yourself in the management of the institution.—Answer. I took charge of the Freedmens' Hospital March 20, 1875, as surgeon in charge. I could find no statute law by which I was to be governed in its management. The hospital had been established by the Commissioner of the Freedmen's Bureau, transferred by act of Congress from him to the Secretary of War, and subsequently, by the same authority, to the Secretary of the Interior; and it has been supported since 1872 by annual appropriations from Congress. I went to the Secretary of the Interior, soon after taking charge, for instructions. He gave me none, except this, that I must do the best I could with the institution, but "never exceed the appropriation." I was then left to follow precedents, customs, and my own judgment. I found some things which, in my opinion, needed to be corrected, and I corrected them; but in most respects it seemed to me that the hospital had been run satisfactorily to the government and to those having charge of it, and for the best interest of its inmates. Hence I continued its general management the same as I found it. I believed that the Congress desired that the greatest amount of good should be done to the greatest number of persons with the money which it had appropriated, and on this principle I have always acted.

The customs established in this hospital while it was under the Freedmen's Bureau and the regulations adopted by the Surgeon-General when it was under the Secretary of War lie at the foundation of its present management. I have continued about the same system of diet, with some improvements; I have employed the same cooks, the same nurses, the same employés generally whom I found there. I have the same system of admitting patients and of discharging them; the same system of reports; the same mode of keeping accounts and books which have served satisfactorily for years are in vogue there now.

No money passes through my hands. I approve the bills for all arti-

cles purchased and they are paid at the Interior Department every month, and the accounts are then considered to be closed for that month after that date. Besides this, by a recent order of the Secretary of the Interior, a full return of all property for which the surgeon-in-charge is accountable is made quarterly.

In making my purchases I have endeavored to keep up a healthy and continued competition between those persons furnishing the supplies, not allowing any man to feel that he had a monopoly of the trade, but that he must furnish good articles and at low prices if he would retain the business.

I herewith present a statement showing the number of barrels of flour used monthly at the Freedmen's Hospital from July, 1874, to February, 1878, inclusive, with the names of the parties from whom purchased and the average number of patients for each month; also, a statement showing the date of receipts of flour for the year 1877.

Statement showing number of barrels of flour used monthly at Freedmen's Hospital, from July, 1874, to February, 1878, inclusive, with names of parties from whom purchased.

Month and year.	Flour from W. M. Galt & Co.	Flour from Terry & Floeckher.	Flour from Barbour & Hamilton.	Total.	Monthly average of patients.
July, 1874	43			43	296
August, 1874	41			41	283
September, 1874	43			43	281
October, 1874	45			45	278
November, 1874	47			47	275
December, 1874	47			47	277
January, 1875	48			48	275
February, 1875	45			45	276
March, 1875	48			48	285
April, 1875	22	24		46	281
May, 1875	24	21		45	274
June, 1875	22	28		50	267
July, 1875		41		41	264
August, 1875		41		41	269
September, 1875	23	19		42	248
October, 1875	16	25		41	248
November, 1875	22	20		42	246
December, 1875	28	18		46	264
January, 1876	20	20		40	274
February, 1876	20	21		41	277
March, 1876	21	19		40	275
April, 1876	29	12		41	261
May, 1876	42			42	266
June, 1876	42			42	265
July, 1876	43			43	268
August, 1876	42			42	270
September, 1876	41			41	262
October, 1876	12		35	47	269
November, 1876	30		16	46	265
December, 1876	44			44	269
January, 1877	39		6	45	279
February, 1877	44			44	280
March, 1877	31		14	45	293
April, 1877	48		4	52	285
May, 1877	43			43	270
June, 1877	48			48	275
July, 1877	41			41	270
August, 1877	19			19	255
September, 1877	28			28	246
October, 1877	32			32	255
November, 1877	23			23	229
December, 1877	24			24	224
January, 1878	28			28	222
February, 1878	28			28	228

As to the apparent variation of the amount of flour used in different months with the same number of patients, it often happens that at the

end of one month the baker has received two or three barrels of flour more than he has returned bread for, which flour is used in the next month, and at the end of another month, perhaps, he may have furnished two or even three days' bread for which he has not received the flour. In this way a variation of five or six barrels may appear in the monthly statement when the same number of barrels are used each month. But experience shows that the same number of patients in a hospital will eat more bread in some months than they do in others, particularly where the state of the health of the patients is varying and where they are constantly changing, some going out and new ones coming in. The same is true of other articles of diet. More corn-meal is used some months than others for the same number of patients. Again it will be seen by reference to the annexed statement that in the month of July, 1877, 41 barrels of flour were purchased; but 12 of these were purchased on the 27th day of the month, and were, consequently, used in August, but in August only 19 barrels were purchased; now 41 and 19 make 60, and this divided by 2 gives the average for the two months at 30 barrels.

Monthly account of barrels of flour received from W. M. Galt & Co. for the year 1877, and dates of receipt, as per their bills.

Date.	Barrels.	Date.	Barrels.	Date.	Barrels.
January 3, 1877	1	May 7, 1877	15	September 4, 1877	1
January 4, 1877	12	May 15, 1877	12	September 5, 1877	12
January 12, 1877	1	May 18, 1877	3	September 12, 1877	1
January 15, 1877	12	May 23, 1877	12	September 19, 1877	13
January 18, 1877	3	May 28, 1877	4	September 27, 1877	1
January 24, 1877	10				
			46		28
	39				
				October 3, 1877	12
		June 2, 1877	12	October 4, 1877	1
		June 8, 1877	3	October 11, 1877	1
February 5, 1877	13	June 14, 1877	12	October 15, 1877	1
February 8, 1877	3	June 19, 1877	3	October 18, 1877	12
February 14, 1877	12	June 20, 1877	12	October 24, 1877	5
February 16, 1877	3	June 27, 1877	3	October 31, 1877	1
February 23, 1877	13				
			45		33
	44				
				November 10, 1877	13
				November 17, 1877	1
		July 2, 1877	12	November 20, 1877	6
March 14, 1877	12	July 13, 1877	12	November 23, 1877	1
March 17, 1877	3	July 23, 1877	4	November 27, 1877	1
March 24, 1877	12	July 26, 1877	1		
March 26, 1877	4	July 27, 1877	12		22
	31		41	December 4, 1877	12
				December 6, 1877	1
				December 13, 1877	1
		August 2, 1877	1	December 19, 1877	1
April 2, 1877	12	August 13, 1877	13	December 22, 1877	8
April 11, 1877	36	August 24, 1877	5	December 24, 1877	1
	48		19		24

On the 1st of July, 1877, I discontinued to issue rations to patients in quarters, and also to the children of the Colored Orphans' Asylum. They had always constituted a part of the Freedmen's Hospital and Asylum, but I did not drop their names from the rolls of the hospital till the 1st of August. I also carried the names of the patients in quarters to whom rations had been issued on the hospital rolls till the 1st of October, giving them an opportunity to come in when they chose. They all understood that they belonged to the hospital, and that that was their home, but they had been permitted to live out in consequence

of enjoying a large liberty and being quite as economical for the hospital.

Q. The act of April 7, 1869, "An act relating to freedmen's hospitals," provides "That the Commissioner of the Bureau of Refugees and Freedmen is authorized and directed to continue the freedmen's hospitals at Richmond, Va: Vicksburg, Miss; and in the District of Columbia, including the asylum for aged and infirm freedmen and for orphan children." That, as far as you know, is the origin of the customof taking care of the children in connection with the Freedmen's Hospital?—A. That is the origin of it. When the quantities of flour used in a year, or in six months, are compared with other corresponding periods of time, the variation between the amounts used at the different times is very slight.

During the first two years and three months of my connection with this hospital, everything went on smoothly and pleasantly; scarcely a complaint was heard from any quarter; and from the many little compliments which I received, from various sources, I verily thought that I was managing the hospital exceedingly well. On the 1st of July last, Dr. A. T. Augusta was relieved from duty in the hospital, and I had ceased, about that time, to purchase goods of Charles Fink & Co., of which firm O. S. B. Wall was the principal partner, and I had also reduced the price paid O. S. B. Wall and othes for milk to 30 cents per gallon, which was the market price at that time. About this time, I found that there were some patients in the wards who seemed to be restless and uneasy, willing to find fault with what before had passed as good and satisfactory. I examined into the causes of the complaints as well as I could, and found them groundless; they seemed to proceed from chronic grumblers, of whom there are always more or less in a hospital. I took my summer vacation in August; on my return I found things much the same.

Q. How long were you gone?—A. I have forgotten whether it was twenty-five or twenty-six days.

Q. Had you leave of absence from the Secretary of the Interior?—A. I had leave of absence from the Secretary of the Interior.

Q. At what time did you go, and at what time return?—A. I think I went away on the 3d or 4th of August and returned in season to sign the bills for the month, about the 28th.

Q. Go on.—A. On or about the 14th day of September I received through the Secretary of the Interior a protest against the payment of William H. Hoover's bill for meat for the month of August, signed by Robert T. Johnson, with a request by the Secretary that I should investigate the matter and report, which I did, and the following is a copy of the protest and the report:

CORNER BEALL AND MONROE STREETS.,
Georgetown, August 30, 1877.

SIR: I protest against the payment of W. H. Hoover's bill for meat claimed to have been furnished by him to the Freedmen's Hospital for the current month, as such meat was of inferior quality, putrid, and unmerchantable, as can be proved if an investigation be instituted.

Very respectfully,

ROBT. T. JOHNSON.

Hon. CARL SCHURZ,
Secretary of the Interior.

FREEDMEN'S HOSPITAL,
Washington, D. C., September 17, 1877.

SIR: I have the honor to state that Robert T. Johnson's "protest against the payment W. H. Hoover's bill for meat furnished the Freedmen's Hospital for August, 1877,

alleging that the meat was putrid and unmerchantable," referred to me for report, has been received and a thorough investigation on the subject has been instituted. After a careful and searching inquiry into the matter, I find that no "putrid or unmerchantable meat" has been received at this hospital during the month of August, or any other month, either from W. H. Hoover or from any other person.

But it does appear that in consequence of the non-delivery of the ice in season, on two or three occasions during the hottest weather, some portions of the meat became slightly affected, and its condition escaped the notice of the steward, the cooks, the inspector of meats, and the waiters, and it found its way to the wards. A large majority of the witnesses examined testify that this has occurred only two or three times during all the hot weather; two of them say it has occurred oftener; but very many of the patients and some of the nurses have not noticed it at all, so that it appears that only a small portion of the meat cooked at any one time could have been affected, and that only slightly.

The imperative instructions to the steward, the cooks, the waiters, and the officer of the day (one of the physicians whose duty it is to examine the food), are now and always have been in this hospital, not to allow any improper food, or food improperly prepared, to pass to the wards, or to be served on the tables.

The ice company have been informed that negligence on their part to deliver ice in season will not be tolereted.

Very respectfully, your obedient servant,

G. S. PALMER, M. D.,
Surgeon-in-Chief.

Hon. CARL SCHURZ,
Secretary of the Interior, Washington.

Several complaints were made about this time by F. E. Felton, which were carefully investigated, and the cause of complaints, if there were any, remedied at once. I felt somewhat uneasy, as these complaints seemed to be numerous and from unknown causes, and I asked several of the officers in the Interior Department to come out and visit the hospital. I think I asked the Secretary himself to come out, and some others, to pay us a visit. Things went on in this way for a while, and I asked the Secretary one day if he would appoint some person or persons to examine into this matter, and learn if there was any cause for these complaints. He informed me that he had already done so. I felt relieved, particularly after I learned, from the chief clerk, that the men appointed were considered to be honest and capable men, although I did not learn their names at that time. Soon after this, on the morning of the 8th of October, I was astonished and shocked on reading, in the National Republican of that morning, charges and specifications of the most extravagant and sensational character against me as surgeon-in-charge of the Freedmen's Hospital, signed by Robert T. Johnson. I have that paper here. This was the first time I had any knowledge of the existence of these charges. The paper was brought into the hospital that morning and freely circulated, and particularly certain credulous persons in the hospital who had had entire confidence in me were led to believe that I had done them a great wrong.

By Mr. ALLISON:

Q. Were an unusual number of those papers brought to the hospital that morning, or was the ordinary number brought there?—A. I think it was an unusual number that was distributed. Everybody knew it before I got there. It was announced by the leaders of this opposition that a change was to be made in the administration of the hospital, and the employés were naturally willing to be the friends of the incoming administration. This I heard in various portions of the hospital. These charges and all other complaints against the management of the hospital have been thoroughly investigated by the committee then appointed by the Secretary. The result of their doings you have. As to the testimony of certain parties who have testified here, I would speak of that

of O. S. B. Wall. His testimony in this case seems to be of a character to break down the management of the hospital and to have me discharged from its management. I wish to say that when I took charge of the hospital, in March, 1875, I found him furnishing milk to the hospital for 45 cents per gallon. I continued to take milk of him until last November, but I reduced the price from time to time as milk became cheaper in the market. Mr. Wall always protested very earnestly against any reduction in the price of milk, notwithstanding he knew that I had offers to supply it cheaper than he was doing it. He would often use language like this, "You won't give a poor fellow a chance to live; it was intended in these appropriations to give us poor fellows a chance to make something"; and this he would do when he knew he was getting the highest price for his milk. Mr. Wall established a small grocery store near the hospital, and asked me to purchase the groceries from him for the hospital, saying that I ought to give the patronage to a colored man. I told him at once that inasmuch as this hospital was intended chiefly for the colored race I would most gladly give colored persons the preference if they would furnish goods as cheaply as others. I sent him several orders—large orders; but I soon found he was charging more for his goods than I could procure the same goods for at other places. I then wrote him a letter complaining of his prices, which letter was read to him when he testified here. He then put the prices down a little. But because of his importunities and his appeals as a colored man I endeavored to give him that portion of the business which he could do as cheaply as others did it. I continued to trade with him for some time all that I could consistently do, but I finally discontinued the trade altogether. When I had my last conversation with Mr. Wall, I think either just before or just after my summer vacation, I cannot tell which, he said, "You have cut the milk down so that it is not worth having. You might as well take it away from me altogether. I worked hard to get you appointed here, and now you have taken away the milk, which I was not under a compliment to you for, for Dr. Reyburn gave it to me, and I shall not stand this. You will see trouble, I think. We are going to look into the crookedness of the Freedmen's Hospital, and when we get through I will shake hands with you." This was substantially the last conversation I had with him. His plan seems to have been to go into the hospital in the morning, ask the steward what was wanted for the day, and then go and furnish it, and bring in his bill and have it paid without question, which I did not consent to do.

With regard to the testimony of Dr. Augusta, I would say that he has complained of discrimination between white and colored persons. When I went to the hospital I found two colored physicians there, Dr. Harris and Dr. Purvis. Dr. Harris was not a suitable man for the place, as he was subject to epileptic fits and has since become insane, being now in the insane asylum. I asked to have him relieved, and during the summer there were only three surgeons managing the hospital; but in the fall the patients increased, and I asked the Secretary to be permitted to appoint Dr. Augusta as an assistant surgeon. I selected him because he was colored simply. I had not much confidence in his ability as an expert surgeon, or in any particular branch, but the branch of the business in the hospital which I wanted him to do he could attend to very well. He attended to the convalescent wards and to outdoor patients; that is, the dispensary patients. It was simply a matter of color that I selected him. He knows very well that there

were white physicians, respectable physicians, making application for the place, but I selected him in preference to any one else.

As to the girl of whom he speaks being there with syphilis coming in as a dispensary patient, he says that he applied to me to admit her to the hospital. I remember nothing of the case; but I can say that it might have been true that I declined to have her come in, from the fact that oftentimes there are several girls in the hospital affected with that disease and they become troublesome, and at those times I try to keep out any increase of that class of patients.

As to her being obliged to sleep in the park, as he says, it cannot be true, because the policemen do not allow anything of that kind. They find plenty of those girls, and they take them up and carry them to the police-station, and then, if they cannot manage them there, they send them to the almshouse. There was no necessity for her to have suffered at all for want of means to be cared for. It is not true that she did suffer.

He speaks of the inspection. The rule in the hospital was for every surgeon to have his ward in good order for inspection at all times, and I myself went around occasionally, unknown to any other surgeon, to look after the wards and see if everything was right, and, as a general rule, I found a good condition of things prevailing. On Saturday we went around formally, all the physicians together, and it was the duty of each physician to speak of anything that he saw out of place, and to suggest any improvement which should be made. I do not know that Dr. Augusta suggested a single improvement while he was in the hospital. He may have done so, but I do not remember any. He speaks of the dripping of water in a certain place which he calls the companion-way. It is over the broad stair leading up to one of the upper wards. I know the place and remember the time exactly. The bath-tub is situated right over that stairway, and it got leaking and was dripping one day when I went up. I sent immediately to the engineer and had it repaired, for it needed plumbing. The thing occurred again and again, about three times. I then wrote to the engineer a note, giving him instructions to have that repaired in such a way that there would be no repetition of the trouble.

By Mr. SARGENT:

Q. Was it done?—A. It was done, and the trouble does not exist now.

As to the lying-in case which Dr. Augusta has alluded to, that was the case of a young colored woman who came in there, and was troubled with albuminuria. She was a patient in my ward. I have all the cases of confinement in my ward. She was taken in labor in the night, and with it convulsions. I think the convulsions came on before any labor-pains came on. There was no apparent hurry in the case, because it is always proper to wait a little for the uterus to dilate to ascertain whether labor has set in. When I went to the hospital I found her in convulsions and immediately went to work to deliver her, which is the doctrine approved by all obstetricians and all practitioners.

I dilated the uterus with my hand, introduced my hand into the vagina and into the uterus, and then I placed on the head of the child a pair of forceps. I used a new pair of forceps which Dr. Purvis had recently brought in, because they were longer than the ones which belonged to the hospital. I put the forceps on the upper strait. I remember the case very well. I brought the head down into the pelvis. The forceps sprang a little, and I was afraid I should not be able to bring it

out through the lower strait with these forceps, and I took them off, and I put on another pair which were stronger, and an excellent pair of forceps, and delivered the head. Dr. Purvis took the head, as he said, received it in a towel, and brought the child away. There is no force required after the head is delivered in ninety-nine cases out of a hundred.

By Mr. EATON:

Q. If there was any used at this time, if this was the hundredth case, state the fact.—A. It was not the hundredth case. The shoulders were delivered as they usually are, by the expulsive pains of the mother. It was an unfortunate case. The woman was troubled with albuminuria, almost all of which cases die, and the child also died, having been poisoned somewhat, no doubt, by the condition of the blood of the mother. But the practice is in such cases always to use the forceps, never to use craniotomy. Craniotomy is to be used only in order to save the life of the mother. There are two operations: one, the Cæsarean section, which is to take the child out through the walls of the abdomen, and the other is to take the child to pieces, which are only to be resorted to in extreme cases in order to save the life of the mother. The forceps are an instrument to save both the mother and the child, and they do it in a great many cases.

By Mr. SARGENT:

Q. In that case would it have been good practice to have delivered the mother otherwise than with forceps?—A. It would have been in violation of all rules of practice, and all rules of common sense. I have had a great deal of practice in obstetrics. I had 1,200 cases before the war, in my native town, all of which I have a record of, and I know from my own experience, and from long reading on that subject, that it is a common-sense matter, which gentlemen not conversant with the profession can readily understand.

By Mr. ALLISON:

Q. How many physicians were present at this operation?—A. I sent immediately for Dr. Purvis and Dr. Glennan. Dr. Augusta came in of his own accord. I did not consult him on such occasions.

Q. Were you all agreed as to the mode of treatment?—A. All agreed as to the mode of treatment. There is no question of it. We proceeded just as though we all knew what to do.

By Mr. EATON:

Q. Did Augusta give any advice, as he suggested here?—A. I do not remember to have heard it.

Q. Did you hear any?—A. I cannot say that I heard it.

By Mr. SARGENT:

Q. What is the "slush fund" of the institution? Just explain that and in reference to the sales of manure?—A. We keep two horses, and have kept four at times since I have been there. The manure which they make is sold to some of the countrymen and the money that comes from it is put into the hands of Dr. Glennan, and he keeps it, and that constitutes the "slush fund." There may be some other little matters which yield money that I no not think of which go into that, but they are very trifling. Dr. Glennan expends that by paying the postage on letters, buying postage-stamps and car-tickets for the messengers, and often-

times needles and thread, and small matters of that kind he expends that money for. I never receive any of it; I have nothing to do with it.

Q. It is a small amount, and all used for the benefit of the institution in these little matters?—A. Yes, sir. He keeps it in an envelope, and if I want any little thing I ask him if he has anything in the "slush fund," anything that is not proper to make a voucher for. We do not want to make a voucher to send to the Interior Department for small, little things that are being constantly needed. I ask him if there is anything in the "slush fund" to pay for it. He goes to the envelope, and if he finds a dollar or half-dollar there, he tells me "yes," and pays for it.

Q. That is, you do not want to send a voucher to the Interior Department for a paper of pins, or a half dollar's worth of tickets, or a few needles?—A. No, sir.

Q. Does Dr. Glennan keep an account of these small items, to your knowledge?—A. He does.

Q. Of debits and credits?—A. Yes, sir.

Q. Has any report with reference to this matter been made, at your request, by Dr. Glennan?—A. Yes, sir.

Q. Here is a paper dated October 19, 1877, and signed Dr. Glennan. Is that the report? [Handing a paper to the witness.]—A. [Examining.] That is the report.

The document is as follows:

FREEDMEN'S HOSPITAL,
October 19, 1877.

SIR: In reply to inquiry in regard to the sale of barrels, manure, rags, &c., I have the honor to state that all funds obtained from the sale of such articles have been received and kept by me in what is known as the Slush Fund. I have had control of this fund during the administrations of Dr. Reyburn and yourself.

During your administration we have sold rags on one occasion only, from which sale the sum of three dollars and some cents was received. From barrels we have received some months sixty to ninety cents, and some months nothing. Swill, $2.50 per month for some time past, before that hardly anything. Manure, $1 or $1.50 per month. I do not think it would average $2 per month. Sometimes for months none would be sold. This manure has been sold by the drivers, and the money received for it has been brought to me by them. My estimate is in reference to the money received. One-half or more of all the money received has been regularly expended for post-office stamps for use of hospital and patients and for newspapers. The remainder of this fund has been expended in paying car-fare for patients and messengers, in purchasing cotton for dispensary, buttons, needles, thread, paying freight-bills, medicines, instruments, tacks, twine, screws, nails, printing labels, oil-cloth, indelible ink for marking hospital clothing, toll to Arlington in case of funerals, paid carpenters for small jobs, paid men for putting in coal, for repairing clocks, putting bottoms in chairs, and little extra articles for patients.

There has never been a time when the balance on hand exceeded $10, and frequently there would be nothing, and there is nothing on hand at present.

The sale of the articles has been left entirely to employés. I have made no sale myself, and have not received any money directly from the parties purchasing except in one instance, that of $8 from Mr. W. B. Weller for the accumulation of manure of six or eight months or longer.

Very respectfully,

P. GLENNAN, M. D.

DR. G. S. PALMER,
Surgeon-in-Chief Freedmen's Hospital.

Q. Are the statements contained in this report correct to your own knowledge, as to the general course of dealing in that matter?—A. They are.

Q. Have you a permit from the board of health for the removal of the *débris* of the dissecting-room of the medical college of Howard University?—A. I have.

Q. Please produce it to the committee?—A. [Handing a paper.] This is a copy of it. It is as follows:

DISTRICT OF COLUMBIA,
BOARD OF HEALTH, OFFICE OF REGISTRAR,
Washington, February 2, 1878.

Permission is hereby given Dr. G. S. Palmer to remove the *débris* of the dissecting-room of the medical college of Howard University to the potter's field for burial, due care being taken to have the material properly inclosed and deodorized to prevent nuisance injurious to health.

D. W. BLISS, M. D.,
Registrar, V. S. S.

Q. What do you do with the *débris* of the dissecting-room?—A. Box it up and send it to the potter's-field, and it is buried there.

Q. In all cases?—A. In all cases.

Q. It has been stated by Mr. Felton that you are accustomed to curse and swear?—A. It is news to me that I ever indulged in such habits at all.

Q. You have never sworn about the hospital in his presence or out of his presence?—A. No, sir; it is not my habit at all.

Q. Is it the habit of Dr. Purvis?—A. No, sir.

Q. It is an entire fabrication?—A. It is entirely a fabrication. I will state here that Dr. Purvis, in all his intercourse with me and in the hospital, has been very gentlemanly; he has never used any bad language to my knowledge, but has always manifested an interest in the hospital and in the patients of the hospital, and has conducted himself with a great deal of professional ability.

Q. And in no instance, during all the time you and Dr. Purvis have been there, have you indulged in bad language to the patients or otherwise?—A. No, sir.

By Mr. ALLISON:

Q. Is there any person in charge of the hospital grounds and buildings at night after you leave there?—A. There is a watchman, whose orders are to make hourly patrols all over the grounds.

Q. He is there constantly?—A. He is there constantly.

Q. And is presumed to be up during the night?—A. I think he is up. I take means of ascertaining that.

Q. Who is the watchman now?—A. His name is Stevens.

Q. How long has he been there?—A. About three months, I should say.

By Mr. SARGENT:

Q. I wish to ask you in reference to a burglary that Mr. Felton testified to as having occurred there, in which he alleged that he lost valuable clothing, and that others lost clothing to the value of several hundred dollars. If that burglary occurred, and you know the circumstances under which it took place, and if there is any reasonable suspicion as to the person who did it, state it.—A. Dr. Purvis informed me that a burglary had occurred; that some clothing had been taken out of the baggage-room on the 25th of February; but I do not know how it occurred. The case was reported to the detectives, and they were there and examined into it, and I do not know what conclusion they have come to. I know they said to me when they were going through the wards and examining the place that it must have been done by two persons, one inside of the ward who took the things out of the baggage-room and threw them out, and another outside receiving them. That was their opinion then. They so stated to me. Further than that I do not know.

By Mr. EATON:

Q. Have you any idea of the value of the property Felton lost?—A. I have not, but I think it could be but very small. Dr. Purvis could tell you about that, inasmuch as it was in his ward, and he notes the apparel the patients have.

By Mr. SARGENT:

Q. The idea of his statement seemed to be that it was in default of a night-watch at the hospital this thing occurred. Was there a night-watch?—A. There was a night-watch; and it so happened that on that night the fence on the Seventh-street side had been removed by the proprietors of the land; a piece of land had been sold off, and the party owning it had taken down the fence for the purpose of building. It so happened, further, that on that night I had placed an extra watch in the ward where the circumstance happened. I put him on watch there in consequence of the complaint which Brown, the former night-watch, made of the abuse which Mr. Felton dealt out toward him, and he said he could not stand it and he wanted to be relieved from duty there. I got an old nurse that I was acquainted with to go there and take the place of night-watch in the ward, and he came on that night at six o'clock. The parties in the ward did not know he was coming until he presented himself there, and Brown took the ward down below.

Q. Was Sanders on duty that night?—A. No, sir; Sanders is a day-nurse and goes off at six o'clock.

Q. Does he go out of the hospital?—A. He goes out of the hospital grounds.

Q. Was he out that night?—A. Yes, sir; he is never in there at night.

Q. It was insisted by Mr. Felton (and he said that was the opinion of the detectives) that it was done by some one inside the building, and he reasoned that it must have been Sanders, because he was inside the building.—A. He was not inside the building that night.

Q. And you did not have a night-watch on that night?—A. Yes, sir; and he had special orders to patrol out in that direction.

By Mr. ALLISON:

Q. Where the fence was down?—A. Where the fence was down, to keep watch of what was going on there.

By Mr. SARGENT:

Q. What is your theory of that robbery?—A. My theory is that some person acting under the direction of Felton and Johnson in that ward, got up in the night, carried the clothes into the coat-room, and threw the clothes out the window, and that a certain party, who had been a patient there and was also in collusion with them, came and got them by a previous arrangement. That is my theory.

Q. What was the object of that?—A. The object was to bring notoriety of an unfavorable character upon the hospital.

Q. Why did that happen on that particular night? Do you think that the persons who did it knew that the extra watchman was coming on that night?—A. No, sir: I think it was accidental, altogether.

Q. You think the burglary would not have happened if the parties who committed it had known that an extra watchman was on that night?—A. I think it would have made a difference with them.

Q. Then on account of Sanders's absence the affair reflects no discredit on him?—A. Not at all, if it was done in that way. Sanders was not in the case at all, unless he was the outside man.

By Mr. ALLISON:

Q. Have you any reason to suspect that he was?—A. No, sir.

By Mr. SARGENT:

Q. What is Sanders's character?—A. As near as I can learn—I have inquired about it—Felton has complained of his stealing things in the ward before, and I investigated his character as well as I could. I found he was a member of the church, and people had confidence in him as to his honesty.

Q. Did you investigate the particular instance of stealing that Felton complained of?—A. I could get no proof of that at all.

Q. That anything was lost?—A. That anything was lost.

By Mr. ALLISON:

Q. Did you get any of this clothing back again?—A. No, sir.

Q. It has never been heard from?—A. Never.

By Mr. SARGENT:

Q. Was Felton pretty well off in clothing when he came there?—A. I admitted Felton myself, and I do not remember that he brought a scrap with him. He was carried down, as he said, from the main building to his ward in a chair by my direction, and I do not remember to have seen a single item of clothing with him.

Q. Do you know whether any was sent afterward to him?—A. I do not know of any, though he has received some since he came there. The value of his clothing must be very small, for his shirts must be rotten or stained to such an extent that they are of no market value at all.

THURSDAY, *March* 21, 1878.

The subcommittee met at the Freedmen's Hospital.

JOHN J. CALVERT recalled.

By Mr. EATON:

Question. We understand from a note which you addressed us that you claim the privilege of appearing before us again in reference to some attacks which you think have been made upon you?—Answer. Yes, sir.

Q. Of course we do not want to reopen the case, nor do you. You have testified to what you know in regard to these matters. Now, state anything that you wish to state in relation to defending your character against any charges which you suppose may have been made.—A. I will, sir.

Q. Be as full as is necessary, but as brief as you can and do yourself justice.—A. I cannot say what these parties have said against me; but from what I understand from the newspaper reports, Mr. Roby has given you a conversation with him in regard to matters around here. It is a well known fact in this hospital that I have never held any conversation with Mr. Roby; that we are antagonistic to each other. I have nothing to do with him, nothing to say to him at all. That is a well-known fact around here, that I have never held any conversation with him at all. The conversation that he imputes to me is a malicious fabrication, gotten up to injure me.

By Mr. ALLISON:

Q. You have had no conversation with him?—A. No conversation

whatever. As to Mr. Banks, we are antagonistic, and have been, I suppose, ever since we have been upon the ground. That is a well-known fact, that I have shunned him when he comes to me and undertaken to hold conversations with me; that I have told him that I did not want anything to do with him. I drove him from me like a dog. That is a well known fact around this place. We hold no conversation at all together. I say, "no conversation." At the time this first body was found, or resurrected, he came to me on the sidewalk and accused me of directing Lieutenant Johnson to where these bodies were buried, and he told me, "You know very well that what I do around here is done by orders." I told him I wanted to hold no conversation with him at all, and did not care anything about it. He has come into my engine-room and wanted to hold conversations. I have come outside and taken him and drove him away from me.

By Mr. EATON:

Q. In other words, you have held no conversation with him?—A. None whatever. It is a well known fact that we are bitter enemies, if I must say that I do not want any conversation with him. He is beneath my notice. I consider him so.

Q. That disposes of these two men?—A. Yes, sir. I really do not know this other man. In regard to some plumbing work, or something, I merely got a glimpse at that. I do not know what he said.

By Mr. ALLISON:

Q. Who was that?—A. I cannot tell you; a white man that has been kept around here. I do not know anything about him. That is about the amount of it. He is a man I have nothing to do with and never have had. As to Mr. Sheehy, I was never in his place once in ten years. Mr. Sheehy keeps a rum-shop over here. I do not visit it and have not had any conversation or anything to do with that man since I have been in this place. I knew him when he was on Fourteenth street. There is a kind of bad feeling between us in regard to a debt for five dollars which he claims that I owed him and I claimed that I did not, and there was no friendship between us at all on account of that. I have never been in his place, I think, twice in ten years.

By Mr. EATON:

Q. Did you have any conversation with him such as he relates?—A. None whatever.

Q. None at all?—A. None at all.

Q. And that is, as you describe the other to be, false?—A. False; maliciously false.

By Mr. ALLISON:

Q. You do not know that it is malicious?—A. Men who come up and swear such a thing as that must be malicious, when it is a well-known fact around here—almost every man in the place knows I do not hold any conversation with them even in business affairs.

By Mr. EATON:

Q. That disposes of Mr. Sheehy?—A. Yes, sir.

Q. Is there any other person who has said anything against you that you wish to notice?—A. None that I have had any notice of. I do not know of any other parties. I know nothing of what has been said but from newspaper reports. This I was more astonished at, that they would go and take parties who were malicious towards me, who really, I believe, some of them, would cut my throat in a minute; this man

Banks, particularly. I have no confidence in the man. Right out in public, and men around here have known that I have driven him away from me when he has tried to get into conversation with me. I would have nothing to do with him, did not want to have anything to do with him, and do not now.

ROBERT T. JOHNSON (colored) recalled:

By Mr. EATON:

Question. We understand that you desire to say something by way of defending yourself against certain charges which it is said have been made, and it is very proper that you should have an opportunity to state fully with regard to those matters. You know what they are, because they have been printed?—Answer. I have seen them published.

Q. Charges that you were arrested for receiving property that was stolen, knowing it to be such?—A. I have seen that charge.

Q. I am speaking of the charge as made. You saw also that it has been alleged that you kept a house of ill-fame?—A. Yes, sir.

Q. I believe those are the only charges which have been made against you.—A. I think there are some more.

Q. Very well, go on and state in your own way what you wish to say in regard to the charges which have been made?—A. I have made a memorandum of them. I saw a statement of officer West that he arrested me. He never arrested me in his life. He never said he wanted to arrest me. In 1865 I think it was—I disremember the exact time—I used to visit a place in the first ward, I think, near Fourteenth street. A woman lived in this house that I visited. She was a single woman. Some parties, I think, took a prejudice against her and said she kept a house of ill-fame, because single men visited there. The officers made a raid on the house. Lieutenant Eckloff was the officer who raided the house. When he came there I was there that night. He took a woman that lived next door. The woman that lived in the house had gone out to the pump or some place, and a young woman living next door came in there, and they arrested her. I do not know whether they took her to the station-house or not. I went away leaving her there under arrest. The next morning I heard they did put some of them in the station-house that night. I do not know whether she was put there or not. The woman brought witnesses next morning. I was going down town the next morning, down Four-and-a-half street, on some business, and I met the bailiff of the court. He said to me, "Bob, I heard some talk down at the police court, something about you and a bawdy-house case." I said "What?" He said, "Yes, they are connecting your name with it, and some of them charge that you were the renter of that house and the keeper of that house." I said, "That is not so." He asked me, "Do you visit there?" I said, "Yes, frequently." I was near the City-hall at the time, and the police court was on C street, a square below. I went down and went into the court and saw Lieutenant Eckloff there. I went into the district attorney's office, and told them that I had been informed there had been some charges made against me, and I wanted to know if it was so. I did not want to be arrested, and so I got a friend of mine, and he went down with me in case there should be need for any one to go on my bond. I saw the district attorney and he did not say much, but told me to talk to Lieutenant Eckloff. I spoke with the lieutenant a little while. He said, "Johnson, I want you to tell me about this house; you go there." Said I, "Lieutenant, I cannot tell

you anything wrong about the house, for I know nothing wrong, and nothing about anybody that goes there; I know not a thing in the world that would in any way commit the parties who live there or parties who go there." Said he, "You know all about it, Bob." He knew me pretty well. I said, "No, sir; I give my word of honor that I know nothing wrong that has ever occurred in that house; I know nothing about any transactions of any persons except myself; I have been there often and often, and I have seen officer West on that beat," the very officer who gave testimony against me. "I have seen him there frequently, and of course if there was anything of that kind, as he is on that beat, he should not visit the house." The lieutenant said, "You know all about it, and must tell me; if you don't tell me I must arrest you as keeper of the house; you are very intimate with the woman, I know." I said to him, "Lieutenant, of course if you put me under arrest for that, I am willing that you should." Said he, "All right, I'll have to do it." Then said I, "I have bail ready here, if necessary." Then he said, "I was told you rented that house." The property belonged to Mr. Fitzhugh Fox, and I said to him, "If you think that I am the renter of that house, I should like you to go right to Mr. Fox, because I am in business, and I do not have much time to myself." "Well," said he, "we will not dispose of you to-day; we want you to appear here on Saturday." That was on Thursday, I think. On Saturday I went to court accordingly, and I believe I went before the court, though I disremember whether the case came up in open court or whether it was settled in the office, but I think I went into court; any way I summoned Mr. Fitzhugh Fox. He told that he did not know me in any business transactions whatever, did not rent me the house, did not hold me responsible for the house, knew me in no way, shape, or form. Of course the court dismissed me on that charge immediately. The woman was afterwards tried in that same court, and think she took an appeal to the criminal court, and her case was brought up in the criminal court, and Judge McArthur dismissed her. The charge was not sustained, and nothing wrong was found against the woman. The neighbors—married people, married men and their wives, who lived next door to her, people who lived all in the neighborhood who knew her—were summoned by her into court, and they all testified that they knew nothing wrong about her; that they knew her to be a hard-working woman and saw nothing wrong about her. The officers could say nothing wrong against her. They knew that when they went there they found a woman who lived next door in the house and another girl and two young men, and that was all they could say; that was all the charge, and the case was dismissed by Judge McArthur.

Of course, under those circumstances I never was arrested by the officer. In the first place he perjured himself by saying he arrested me. He never did in his life, and his own lieutenant, I think, ought to be a witness in regard to that. He knows that they never arrested me. If there was any arrest he made it himself. I do not know whether you call it an arrest, but I went into the court-room where they had these parties that were arrested, and in the district attorney's office had the conversation I have mentioned to you with the lieutenant and the district attorney at that time. I forget now who was the district attorney, there have been so many district attorneys in that court. I did not consider myself under arrest then.

Now, in regard to Lieutenant Vernon's statement, and that of the man Marshall, who was before the committee in regard to my character. I testified before this committee that I used to keep a restaurant, and had

twenty or thirty regular boarders and forty or fifty transient boarders every day to take their meals. To break down my character for veracity, they bring this man Marshall in to testify that I never had such a trade. I kept a restaurant on E street, near the National Theatre, three doors from the theatre, and I used to feed all the hack-drivers from Willard's Hotel, and the Imperial Hotel, and all the men around about there; and a great many porters and men in the different business places along the Avenue down to between Ninth and Tenth streets used to take their meals at my house. This man Marshall, when I first went in business there, went in with me, and I found all the time he was with me my business went crooked. He was a man who did not have much education, and he could not cover up what he did very well. I found that he was robbing me; I was satisfied he was robbing me. He goes off and buys, I think, 950 cigars, not 10,000 as this gentleman said, but 950, and sends them to the house by the man he bought them from; at least the man came there and represented that, and I can produce to-day a man who was there when he brought them and saw me refuse to take them because I did not want to touch them. That same man went before the court and showed that was the case, and I was dismissed. The officer says the case never came up in court, but it did and I was exonerated. This man Marshall sends 950 cigars to the house by a man who brought a note for me to take the cigars and pay him for them. Marshall was my partner at the time. The man who brought them had another man with him. I read the note and said "I tell you Marshall is a very peculiar man, and if I take these cigars and pay for them he may not be satisfied with what I pay you for them, and I would rather you would wait and give them to him himself." I was not told they were stolen or anything of that kind at the time. I did not want to pay for them for fear of a dispute with my partner about the price of them. The man who brought them said, "It is all right, Mr. Johnson; he told me to bring them to the house, he could not get here himself; you take them." I was in the dining-room talking with a man at the time. I said to him, "Jim, Dick is a very curious man, and, while I would take those cigars under other circumstances, he and I are not on very good terms, and I do not know what to do." My friend said, "Oh, I would take the cigars; the man who brought them has brought you a note from Dick." I took them, and paid the man for them. Marshall did not come to the house that day or that night. The next morning when he came I said to him, "Dick, a man brought some cigars for you, and left them with me, and I paid him for them." I forget now what it was that I paid for them exactly, but I think twelve or thirteen dollars, or something in that neighborhood. He paid me the money back again. I had a large sideboard in the house, where I put them, and I pointed to it and said to him, "There are the cigars." I would not put them in the bar-room. I did not attend bar regularly; I had a bar-keeper; so I thought I would put them in the bottom of the sideboard. I showed them to him, and he paid me for them. That day I went out, and was out all day until about 7 o'clock in the evening. At 7 in the evening, when I came in, Dick came to me and said, "Bob, there seems to be some trouble about those cigars." "What is it," said I. "Well," said he "Lieutenant Skippon and Sergeant Vernon"—(he was not a lieutenant then)—"and officer Moore and some other officer came here and asked me if I bought some cigars, and it seems as if those cigars I bought were stolen." I said, "Did you give them to the officers?" He said, "No." Well, I did not consider that I had had anything to do

with them, because I merely received them for him, and gave the money for them and got it back again, and I considered that that was proper. I did not know at first whether he proposed to charge me for half of them and have them used in the house or not. I paid the full price, and he paid it back to me. I told him I had not bought them, and said, "Why did you not give them to the officers? You ought to have done that." "Well," said he, "I did not know exactly what to tell them. I was confused at the time." Said I, "You never ought to have done that, Dick; you are likely to get yourself into difficulty." "Well," said he, "I will see them to-morrow morning." That was in the evening. We kept open there pretty late for theater business, and I used to be on duty at night.

Shortly after that, in came Lieutenant Skippon and these officers again. The lieutenant walked in and said, "How do you do, Bob?" I answered, "How do you do, lieutenant?" Said he, "I was told that you bought some cigars." "No," said I, "I have not bought any." Dick was right there, and I wanted him to tell that he had bought the cigars; but I did not say so. I said "I did not buy any cigars." I only bought cigars from a man on E street near 8th. I think his name was Cairo. I never bought a cigar since I have been in business only from that man. I used generally to go down there and buy 700 or 800 or a thousand at a time. "Well," said the lieutenant, "I asked Dick about it, and he said he had not bought any." Said I. "Did Dick tell you he had not bought any?" "Yes," said he, "he did." Dick saw I was doubtful about it, and felt very bad, and was just about to expose him. The officer said "Show me your room; I should like to look in your room." Said I, "Certainly;" and I gave him the key of my wardrobe, which was the only thing I had locked. He went and looked, and said, "You have not bought any cigars?" Said I, "I did not buy any cigars. If there are any cigars in the house, Marshall has bought them." Said he, "I have seen Dick, and he told me he did not buy any." The lieutenant said no more, but walked out. By the time he got to the door Marshall had slipped out back into what is called Theater alley, where the actors go through, and he came down the alley to E street and met Lieutenant Skippon and said to him, "Lieutenant, Johnson bought some cigars——

Q. You did not hear that?—A. No, I did not; but officer Moore—you can summon him—is the very man who told me. When I went to court, all the policemen and all the detectives said they were astonished to see me being in any such connection as that. I was never arrested in my life for anything like that before. They said they knew Dick to be a regular partner of thieves and keep thieves' property in the house, and officer Moore said to me, "Bob, it looked very peculiar, and the old man"—by that he meant the lieutenant—"thought so too; but I cannot dictate to him; he went out the private way and told us you bought those cigars." Then, said I, "He is trying to get me into difficulty; I did not say anything about the cigars, because I left it to him to tell himself." I knew I could prove by the man who was there at the time that I did not buy them. So the next day a police-officer came there, and did not even bring a warrant or arrest me. He knew me very well. I was in business there, and I suppose he thought I would not run away. Says he, "We want you to come down to the station-house this morning and go to court." He asked me where the cigars were. I told him, and he went and took them, and carried them to the station-house.

Q. Where were they?—A. In the house. Marshall had never moved

them from where I put them. They were in the side-board. There were seven boxes, I think. The officer took them to the station-house himself, and said "We want you to come over to the station-house." Said I, "Do you want Marshall to go?" Said he, "No." Said I, "All right; I'll go." I sent for a good friend of mine to go on my bond, and I went over into the court myself. The case was brought up in the court then and postponed until Saturday. On Saturday I gave a thousand-dollar bond to appear on Monday, for it was postponed again until Monday. I appeared on Monday in that court, and they sent all hands to the grand jury; that was in the police court.

Q. What do you mean by "all hands?"—A. They asked me who I got the cigars from, and I told them. By "all hands" I mean myself and the men who brought the cigars there. I told the police who they were, so that they might find them all out. They found the thieves. They told them that Mr. Marshall bought those cigars from them; stated in the presence of the officers that I did not buy the cigars, but said Marshall was the man who bought those cigars; and the man added, "Marshall has bought cigars from me before, and I think it is a shame to put the crime on that man," pointing to me. The thieves said that themselves; told the officers so. I think Mr. Sargent was one of them, and Mr. McDevitt was the other. He said "Bob Johnson never bought cigars from me in his life." He told them that in the court, and the court then asked me why I took them, and I said, "Gentlemen, I took those cigars. I knew nothing about what Mr. Marshall did, or any of his transactions; of course this thing falls on me. I took those cigars for him; are you not satisfied?" "Yes," they said right up and down, plainly. There was no trial scarcely at all. The court exonerated me of the charge of buying stolen goods. I produced a man to show that I told these parties I did not wish to receive those cigars because I thought it was more than likely Marshall would have a dispute about the payment for them. The court exonerated me and sent me home. That ends the cigar matter and Lieutenant Vernon. Then this man Crusor testified that I was a convict in the Washington jail. I never was convicted of any crime since I was born in the world; was never fined; never sentenced to jail; never proved to have violated a corporation ordinance in my life. I am telling you that under oath.

By Mr. ALLISON:

Q. Is there anything else you wish to say?—A. Yes, sir; there is a little more I want to say. But in regard to this man Carson I want to tell you what is the matter with him. When we had the right of franchise in this District he was a kind of political worker, and he had a right good influence among the colored people in the District. I used to go around among them myself. This man Carson wanted me on one or two occasions to come up and help him, and support his party; I was a little opposed to it and objected. In that way I incurred his hostility. On one or two occasions, I believe, I opposed him in some meetings for nominations, or something of that kind. He got hostile to me. He came before the committee. I do not know what his testimony before you was, but I believe he testified that I had promised in political meetings to assist him and then went against him, or did not do it, or something of that kind. He was asked what was bad about my veracity. This was before the department committee. To rebut this man I summoned several witnesses here before that committee—Mr. Ewing, Mr. Ward, and other gentlemen—who certified to my character; gentlemen who have

known me from boyhood, known me all my lifetime, some of them, and they certified that they never knew anything detrimental to my character, and that they would believe me on oath or off oath—gentlemen holding positions here under the government of the District, and other men, citizens of the best standing. If you inquire into those men, you will find that there is no man like Perry Carson. He has an indictment hanging over him to-day; it has not been dismissed, and it has been so for five or six months past. He had to leave Baltimore City for criminal offenses. Dick Marshall is a man who has been arrested on several occasions for having stolen goods in his possession, keeping a gambling-house, beating a woman (a prostitute), and such things as that. Jim Leonard has been arrested for keeping policy-shops, and been arrested for keeping a gambling-house, I am pretty sure. Those are the men who come up to villify my character. If you can find any such witnesses that I have produced to testify to my character I have no more to say. I called on gentlemen, men of good standing, and I can give you their names, and you can see who they are.

Mr. Crusor came to me here in this hospital, came into my ward one morning with Dr. Purvis. While Dr. Purvis was looking at his patients Crusor came to me. I had walked out into the water-closet to clean my teeth. It was in the morning. When I went out in the hall, Mr. Crusor came and stopped and looked out of the window into the yard. When I came out of the bath-room from cleaning my teeth he walked up to me and said, "Johnson, what is all this trouble here at the hospital?" I explained to him. Crusor had known me a long time. I know him, and if I was disposed I could produce witnesses that could say something detrimental to him, right from Georgetown, where he has lived all his life, but I would not go to that trouble. Mr. Crusor came to me and made some remarks which I marked down at the time; I paid particular attention to them, for he threatened me afterward. He persuaded me, all he knew how, to withdraw my charges and to stop the prosecution against the medical staff of the hospital. He asked me as a friend of his, as an old acquaintance and friend of my father's, and all the like of that. Of course, I told him I had made charges and I could not go back on my word. I told him I was treated bad and felt a little bad over it, and if I had it to go over again, probably, I would not do it, but, said I, "I have given my word and I will not make myself out a liar; I am satisfied I am right." Mr. Crusor said to me on that occasion——

Q. Did you mark it down at the time on the paper you now have before you?—A. Not on this paper, on another. I took notes of nearly everything that occurred. I made little memoranda here and there in lead-pencil marks, which I rubbed out when I put them down with pen and ink afterward, as I got an opportunity.

Mr. Crusor asked me at the time to stop proceedings against the men here. He went with me into a long conversation. He told me that it would be the means of breaking up the hospital, and was talking in that tone. I told him I could not help what was done; that the hospital might as well be broken up as carried on the way it was. Said I, "The patients do not receive much benefit, and the government appropriation is being embezzled and squandered, &c., and I don't think it is right, Mr. Crusor; my conscience tells me that I would be doing wrong to undertake to stop any proceedings now after they have gone as far as they have." He insisted on it; I stood firm in my decision. Finally he said that I would lose his friendship by proceeding in my course, and that my friends outside did not like my proceedings in this matter, &c.

I told him I could not help who liked it or did not like it; and, another thing, if I lost his friendship by these proceedings I would accept his hostility and abide the consequences, or something to that effect, I remarked to him at the time. He talked on and talked on for some length of time, and finally Dr. Purvis got through with his patients while we were standing in the hall, and he came out, and Crusor went down-stairs with the doctor and went out into the yard, and they stood out there and talked some time. I was at the window looking at them. He as good as told me if I proceeded in this matter in the investigation, or preferring charges, he would do something—I did not know what. In fact, I did not care much, because I knew he could not do much to me. So, finally, when he came before the department committee he would not swear point-blank that I had ever been a convict in the Washington jail. The gentlemen of the committee—and there were three counsel here, Mr. Riddle, Mr. Miller, and Mr. Cook—and they all asked him, and tried to bring the word right out of him, and I tried to bring it out of him, if he had ever known me to serve a sentence in this jail, and he said he was under the impression, but he would not say positively that he ever knew it to be a fact to his own knowledge, but he said it was his impression. They asked him if he knew it to be a fact, and he said he was under the impression. That was the only way he would answer. I said to him then, "I should like you to tell the gentlemen if you know that to be the fact."

By Mr. EATON:

Q. Is there anything else you wish to state?—A. There are a few statements I should like to make in regard to hospital matters.

Q. No. We only came here to give you a full opportunity to vindicate yourself. We have gone into hospital matters heretofore. You have had a full opportunity heretofore of disclosing your knowledge on those subjects, and we cannot reopen matters that have been closed.—A. I believe I have disposed of all the charges against me. I desire it to be noted on the record that I have further information which I desire to give in regard to hospital matters and other witnesses.

Q. We have spent weeks in the investigation, and have heard all sides. We do not propose to go over the same ground again.

SATURDAY, *March* 23, 1878.

The subcommittee met at the room of the Committee on Appropriations.

O. S. B. WALL (colored) recalled.

By Mr. SARGENT:

Q. We have received your request to appear before the committee to answer as to some personal matters affecting yourself testified to by other witnesses. We are ready to hear your statement in reference to those matters.—A. I have not said anything since my former testimony, but there has been some further testimony since that time.

Q. Go on and make any statement you wish about it.—A. With reference to which; the ones that I had replied to, or something that has been said since?

By Mr. EATON:

Q. You do not want to speak of what you have replied to. We have

that; but, as we understood, you have asked us to hear you about certain matters that have transpired since you were examined.—A. I have not said a word, nor intimated to anybody that I would. I said with reference to that it made no difference; but I am glad of the opportunity.

By Mr. SARGENT:

Q. We understood that was your wish, and therefore we subpœnaed you.—A. I am thankful to you, Senators, but I had never intimated to anybody that I would, because I did not feel satisfied with the examination I had before, and I should not have appeared before the committee from that fact.

If I remember rightly, now, Mr. Crusor made another statement with reference to myself, and so did Mr. Charles Peters. I did not fix my mind in good condition, because I did not know just exactly the matter I was to come for to-day. I have been wondering what it was. With reference to Mr. Crusor, I would not change my statement about him at all. He came to me just as I stated before, and almost upon his knees, and implored me to let up, and all that sort of thing, I telling him it was not me, and that I had not mentioned the matter at all, only I was in sympathy with it. As to Mr. Peters, I do not remember when I ever had conversation with him, and I would not state positively. I do not remember now just what he stated about the matter between him and me. I do not remember except in a sort of general way that I had a talk with him some time before, but do not remember what I said. I know that he entirely agreed with me and felt that people had been treated wrongfully there and there ought to be a change. I remember that very well, but I do not remember all the words that I said. I do not remember what he said and I said, and I cannot make an interesting replication to that, so far as that is concerned.

I want to call your attention to a certain matter that it seems Dr. Purvis has stated about my having commenced this investigation of the Freedmen's Hospital after I was cut off from furnishing supplies. Mr. Douglass called my attention to that fact yesterday, and I stated to him what I have here, and I obtained it by writing a letter to the Secretary of the Interior, and got it this morning. I think the investigation commenced about the 1st of August. The whole matter must have been worked up and got into charges and specifications during a week or two previous. Here is a letter that I want to show in reference to that. Just in this way these gentlemen have treated me right along, making their charges and statements.

[Submitting the following letter:]

DEPARTMENT OF THE INTERIOR, OFFICE OF THE SECRETARY,
March 23, 1878.

SIR: In reply to your note of this date, asking for the date of your last voucher or receipt for furnishing supplies for the Freedmen's Hospital, I would respectfully state that the books of this department show that the last voucher paid you was on the 5th December, 1877, when the sum of fifty-eight and $\frac{63}{100}$ dollars ($\$58\frac{63}{100}$) was paid you for milk furnished.

Respectfully, yours,

GEO. M. LOCKWOOD,
Chief Clerk.

O. S. B. WALL, Esq., *Present.*

I just wanted to say that I suppose about the last of July, perhaps, this matter commenced, up to which time I knew nothing about the commencement of it, only saw it when it was presented to me by this man Johnson presenting it. Then I did not know him and asked some-

body who he was. I went right along from July, in August, September, October, and November, and up to December, pending the whole investigation, after the papers were submitted to the Secretary of the Interior and pending his conclusions, up to the 5th of December, furnished hundreds of dollars' worth after I had met Dr. Palmer, and as I thought honestly and like a man told him that I thought he was a good man and how the matters were running there, but I thought it needed investigation; the thing had become crooked and corrupt. That was just my opinion, and of course I told him, "Doctor, I don t want to be two-faced; I am going to sympathize with this investigation, and hope it may be thorough, and if you are right you will be vindicated, and if you are not let there be a change there." I said just that to him right after the charges and specifications had been published, and I did not know anything about them a minute before they were published, not a particle about their coming.

Q. Did Johnson submit them to you before or after they were published?—A. Before. He came into my office with Mr. McFarland, and McFarland handed them to me. I asked what the paper was; looked over it, read it almost all, not all of it, saw it was in reference to the Freedmen's Hospital. Then next morning, I think it was, these charges were published, and then I read them thoroughly.

Q. Had they been filed in the Interior Department at the time you read them?—A. I do not know. I never asked and do not really know, but I suppose they had been; it is only a supposition.

Q. I understood you to testify before that you knew nothing about them until you read them in the papers?—A. I did not thoroughly. That was the truth. He had this manuscript written miserably scrawly. I did not know whose hand it was in. I glanced over it, and knew about the substance of it, but I never knew thoroughly about the details until I read them in the papers, where I could read them, but I knew the day before it was talked of and agitated, for he was there and I asked McFarland who this man Johnson was; if he was a man of any standing, said I, "He seems to be intelligent." I spoke about that way. I did not know them thoroughly until I saw them in the newspapers.

By Mr. EATON:

Q. You did not know Robert Johnson?—A. No, sir; had no sort of idea of him until that matter came up and McFarland came to my office.

By Mr. SARGENT:

Q. How happened McFarland to come with him to your office to show you these charges, if you took no interest in the matter and had had no previous consultation?—A. I had attended to a good deal of law business for McFarland, and latterly, for the last two or three years, he has been about my office almost all the time. I do not think I had ever even talked to McFarland about the hospital; I know I never had about any investigation. I had spoken to McFarland a number of times about the complaints of those old people as I would pass by the place many times, and I had to other people, and that I hoped it would be righted, and hoped they would mend their ways there, or something of that kind. I used to make those usual remarks. I had spoken to him a number of times in that way. When he saw this he might, from his knowledge that I was dissatisfied with the running of the hospital, have brought him in; but it was a fact, just as I told you, that he never had talked to me about the investigation or I with him. I had simply refrained from doing it, not because I felt that it ought not to be done,

but because we had been so persecuted in this District, year after year, with investigations that I was sick, and I thought everybody was nauseated with so much investigation.

I told several of my white friends that if it was not for that state of things I should like to see the Freedmen's Hospital investigated, and the Freedman's Bank and some other institutions that I knew the colored people were suffering a great deal from.

Q. They did not cut you off from furnishing milk on account of your proceedings in regard to the hospital?—A. No, sir; that is as true as you live, sir. They did not say a word to me about it, and I went right on furnishing everything for five or six months, as this paper shows.

Q. Anything besides milk?—A. I was connected with a German fellow who did the most of the other furnishing. That I never did much about.

Q. When was your last voucher of Fink & Co.?—A. I do not remember. I intended in my letter (which I was sorry I omitted) to ask the department to give me the amount for each month, and the nature of the things I furnished. I started this boy Fink there, but I did not stop in the store probably once in two weeks.

Q. Then you wish to exonerate Dr. Palmer from any malice in cutting you off from the trade on account of your course toward the hospital?—A. I have never intimated anything of that kind. I think Dr. Palmer is a nice man. I am perfectly willing to say that. I think, though, he has been badly used by persons connected with him. I think Dr. Palmer is an honest, quiet, nice gentleman.

Q. Is there any other matter about yourself that you wish to testify to?—A. No.

APPENDIX.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., March 5, 1878.

SIR: In compliance with the request of the subcommittee investigating the affairs of the Freedmen's Hospital, District of Columbia, per Mr. Thomas P. Cleaves, clerk, dated the 4th instant, I have the honor to transmit herewith copy of the report made by Messrs. Reynolds, Holden, and Clements, a committee appointed by me in August last to investigate and report in relation to the financial operations of that institution.

Very respectfully,

C. SCHURZ,
Secretary.

HON. AARON A. SARGENT,
Chairman Subcommittee on Appropriations, United States Senate.

WASHINGTON, D. C., *August*, 1877.

SIR: The committee appointed 28th July, 1877, "to examine the books and accounts and methods of property accountability at the Freedmen's Hospital and report the result of its examination to the Secretary of the Interior," has the honor to state that on Friday, the 3d instant, it attended to that duty and was cordially welcomed by Dr. G. S. Palmer, surgeon in charge.

The books and papers of the hospital for several years were carefully examined, and appeared to be perfectly correct.

The committee ascertained that no money is handled at this institution. All purchases are made by the surgeon in charge, in open market, under full and free competition, at the lowest attainable rates. All stores are weighed on receipt, and properly cared for until consumed. The patients are well fed with wholesome, well-prepared food, the bread being of excellent quality.

The committee learned that the bread is not made on the premises, but flour is exchanged for bread, pound for pound. This practice should be stopped, in the opinion of the committee, and it recommends that an appropriation be asked of Congress to establish a bakery on the premises.

Invoices of all purchases are certified to by the surgeon in charge, and paid by the disbursing-clerk of the Department of the Interior. Clothing is issued on a requisition of the surgeon in charge, a considerable portion of which is made up by patients, and a strict account of it kept in a "clothing-book."

The committee sees no particular cause for recommending any alteration in the manner of keeping the books and papers of the hospital, except as to property accountability. An account of stock should be taken, and a property account kept; and the committee recommends that a board of survey be appointed to inspect and condemn certain worthless articles, such as old worn-out blankets, &c., that they be at once disposed of, and that said board of survey should meet quarterly, say on the first Monday in January, April, July, and October in each year, for said purpose.

The committee learned that no clerk is allowed the hospital by authority of law; the person employed seems to do his duties in a clerical manner, receives $50 per month for his services, and the surgeon in charge reports him a "laborer."

The committee was shown through the various wards, offices, store-house, &c., of the hospital, by Dr. Palmer, and is unanimous in its approval of his conduct of his public trust.

Respectfully submitted.

J. E. REYNOLDS,
FRED. A. HOLDEN,
J. C. CLEMENTS,
Committee.

HON. CARL SCHURZ,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington, March 18, 1878.

SIR: In reply to your letter of the 14th instant, I regret to say that for several days I have made search for the paper to which your letter refers, and have so far been unable to find it. The letter was written on a sheet of small note paper, and was, as far as I can remember, unofficially handed to me by Dr. Palmer shortly before your investigation began. The letter may have been mislaid from my desk in the department, or become mingled with papers referring to other subjects.

I shall have the search continued as diligently as possible, and if the letter cannot be found I think it would not be difficult to ascertain its contents from S. M. Felton of Philadelphia, or Sister Beatrice.

I am still in hopes to find it; and, if so, shall, with the greatest pleasure, transmit it to you.

Very respectfully, C SCHURZ, *Secretary.*

Hon. WM. B. ALLISON.
Chairman Subcommittee Investigating Freedmen's Hospital.

OFFICE OF THE PENNSYLVANIA STEEL COMPANY,
No. 208 SOUTH FOURTH STREET,
Philadelphia, March 13, 1878.

RESPECTED MADAM: On April 2, 1877, I sent you $26 to pay for the board, &c., of Mr. F. E. Felton, in your hospital during the previous month, and said in my note, inclosing the remittance, "if you think it better for him (F. E. Felton) to be in a room by himself I will pay the sum mentioned, $30 per month."

On the next day you wrote me, acknowledging the receipt of the money, and added, "I have given Mr. Felton the room at $30 per month; he is very grateful for your kindness to him. He finds the room much pleasanter than the ward, where he had to mingle with so many persons."

On the 16th of April, 1877, he wrote me, saying, "About a week ago Sister Beatrice removed me from the ward to a small single room, which was unheated and uncarpeted, and aggravated my disease, and charged me $3 per week for inferior accommodations. I accordingly left the hospital to-day in search of cheaper quarters.

"My physician advises me that I shall be better off in business, as my mind would be occupied, and my lameness would not interfere with the prosecution of business if I had a good man to attend to outside matters. I have found the right kind of man in Mr. P. H. Sweeney, of this city, for thirty-five years an employé in the post-office, &c. Do you not think it would be expedient for me to take a modest office and enter into business? My physical and mental powers were never so good as at present, with the single exception of my lameness. I am more than anxious to be at work and making money. One hundred dollars would be sufficient to rent and furnish the office, which would be better expended than in paying board with nothing to show for it. I wish you would write me your views."

On April 21, 1877, I wrote you as follows, viz: "Yours of the 16th inst. would have been answered sooner but for my absence from Phil'a. Enclosed please find my check for $15. I regret exceedingly that Mr. Frank Felton left your good care, and hope to hear that he has returned to you. He has written asking for money to establish himself in business, but I will do nothing for him in that way. I have already done so too many times, and no good has ever come of it. I have written him to this same effect. His sisters and I are very grateful to you for the care and attention you have shown him. We have not felt so easy about him for many years as we did while he was under your charge. Please take him into your hospital, if he comes to you, after he learns that he cannot take care of himself."

On May 16, 1877, I wrote you as follows, viz: "I regret exceedingly to learn that Mr. F. E. Felton is annoying you, who have done so much for him during the past year. I, of course, do not know what clothes he had when you so kindly received him in April, 1876, but I do not believe he had much of anything, for I have on file his letter of April 25, 1876, asking that clothes should be sent him at once. When he left here in February, 1876, I gave him an order for a $30-suit of clothes, and $180 in cash to pay his expenses to San Francisco, where his own brother then lived. The next I heard of him was through some man in Washington, early in April, putting in a claim for board; and then I learned he was taken in a helpless condition to your hospital."

I know nothing of the merits of the Freedmen's Hospital case which he is now agitating.

Regretting that he continues to annoy you, I remain, yours respectfully,

S. M. FELTON,
By BARKER.

To Sister BEATRICE,
Providence Hospital,
Washington, D. C.

SAINT AUGUSTINE'S CHURCH,
Washington, D. C., January 21, 1878.

DEAR SIR: Your letter of the 19th instant has been duly received. You ask me some questions concerning the Freedmen's Hospital.

It would have been more satisfactory if you had stated the purpose of your inquiries. However, knowing you personally, and satisfied that no other motive than the welfare of the hospital has prompted them, I shall answer to them briefly but candidly.

1st. "How long have you been attending the hospital?"

Answer. For the last ten years.

2d. "Has the hospital been kept clean?"

Answer. As far as I could see, it has been. I have been there at almost any hour.

3d. "Has the food been good?"

Answer. I was there few times during meal-hours, and thought the food good.

4th. "Has any complaint been made to you by those you visited as to the treatment they received?"

Answer. None whatever, to my recollection.

I have sent many to the hospital, and they were all kindly received, for which the officers of the institution have my sincerest thanks.

Yours, respectfully,

F. BAROTTI, *Pastor.*

Mr. C. B. PURVIS, M. D.

WASHINGTON, D. C., *October* 18, 1877.

SIR: I hereby present supplementary specifications of official malfeasance and dereliction of duty against Gideon S. Palmer, M. D., surgeon in charge of the Freedmen's hospital.

First. Hall's lecture-rooms, dissecting-rooms, and private apartments used or occupied exclusively by the Howard University Medical College, have been lighted and heated at the government expense out of appropriation to Freedmen's Hospital, in contravention of law, since the first day of July, 1876, to the present time, through the procurement or with the knowledge or sanction of said Palmer.

Second. Furniture, fixtures, goods, and chattels belonging to the government or purchased by it out of the appropriation to said hospital, have been placed in the halls, rooms or apartments occupied by said medical college, or the students thereof, or been used exclusively for the exercises, functions, benefit, or advantage of said college, in contravention of law, through the procurement or with the knowledge or sanction of said Palmer.

Students of the Howard University Medical College have been furnished with meals or board at the government expense, defrayed by money diverted from the annual appropriations to the Freedmen's Hospital; an exclusive table, denominated the students' table, was regularly set in an apartment of said hospital, and was furnished and equipped in a proper and attractive manner in marked contrast to the rude style and repulsive appearance of the patients' and nurses' tables; choice meats, fish, vegetables, puddings, pies, fruits, and other delicacies were profusely supplied to the favored students, who were intruders at the hospital, and in nowise proper recipients of the government bounty; students' meals were prepared especially for them by the best cook employed at the hospital and served at fashionable hours, while the patients and hospital employés, on the contrary, *were restricted* to scanty and unsuitable food, odiously cooked and served, consisting, to a large extent, of bad provisions, offal, and tainted, putrid, and spoiled provisions, wholly unmerchantable, and the refuse or *debris* of the market. If said medical students paid for the meals, or board, which were provided for them at the government expense out of the hospital appropriations, it was incumbent on said Palmer to account for and dispose of the receipts in the manner provided by law, which this complainant is informed and believes was not done; if, on the other hand, said students were gratuitously furnished with such meals or board, then said Palmer has wasted, perverted, or misappropriated public property for private use without compensation, in contravention of law, whereby the government was defrauded, the hospital injured, and the patients deprived of their rights, plundered of their money, and subjected to scanty or unfit sustenance, and the comfort and conveniences which invalids require.

Fourth. Under the management of said Palmer human remains, offal, and *débris* from the dissecting-rooms of said college have been stealthily removed at night from the college-building and inhumed on the premises of said hospital in dangerous proximity to the wards, water-pipes, or cisterns that furnish the water-supply of said hospital; and, furthermore, deceased patients have been surreptitiously transported from the hospital-wards or dead-house to said dissecting-rooms to be operated on, of which corpses some were returned at night to the dead-house in a cut or mangled con-

dition, and the rest, after dissection, were preserved, in part, for skeletons or specimens, and the remains, offal, and *débris* were hidden in the hospital-grounds or some other place unfit for sepulture.

Fifth. Government property, appropriated to the use of the Freedmen's Hospital, and committed to the official custody of said Palmer, has been disposed of, to a large amount, at public or private sale, and the proceeds thereof have not been accounted for or paid over to the government by said Palmer in the manner prescribed by law.

ROBERT T. JOHNSON.

Hon. CARL SCHURZ,
Secretary of the Interior.

WASHINGTON, *October* 24, 1877.

SIR: I deem it right that you should be accurately informed as to my connection with the pending investigation of the official conduct of Dr. G. S. Palmer, as surgeon-in-chief of the Freedmens' Hospital.

Peculiar circumstances induced me to become a patient in that institution. I was not long in discovering that its management was radically corrupt, that the government was being defrauded, the patients maltreated, and the efficiency and usefulness of the hospital were seriously impaired by avarice, fraud, and peculation. A sense of duty impelled me to expose its maladministration, and with this object in view, I caused certain letters to be sent you, informing you of the abuses existing there. Subsequently, I draughted formal charges and specifications of official malfeasance and dereliction of duty against Dr. Palmer. As a matter of policy, I deemed it expedient that a colored man should appear as the complainant, and I selected Mr. Robert T. Johnson for that purpose. He copied the charges and specifications from my draught and filed them with you. I have since prepared the case against Dr. Palmer, and prosecuted it before the investigating committee. I have received no fee or reward for my services, nor do I expect or ask for any compensation whatever. I have defrayed the expenses incident to the prosecution of the matter out of my own resources, and have been actuated solely by a determination to expose a grievous wrong, and blot out a foul disgrace inflicted on the government and country.

Although Mr. Johnson is the nominal complainant, I alone am responsible for the inception and prosecution of this matter.

With great respect, your obedient servant,

FRANKLIN E. FELTON.

Hon. CARL SCHURZ,
Secretary of the Interior.

FREEDMEN'S HOSPITAL, *November* 1, 1877.

To the honorable committee investigating charges
against the management of the Freedmen's Hospital:

GENTLEMEN: In reply to a request for certain information signed by Franklin E. Felton, counsel, &c., dated October 30, 1877, I have the honor to return the said request with the following reply:

First. No articles of furniture belonging to the government have been used to my knowledge, or placed in any hall, room, or apartment of the Howard University medical college building other than those leased by the government from the Howard University, except four stoves which were necessary, in accordance with the conditions and obligations of the lease, to heat the lecture-room and other rooms in use by the medical college. Stoves were substituted for steam as a matter of economy.

Second. A few trifling repairs have been made in the rooms above designated from time to time as required, in conformity to the terms of the lease of the property, but at no particular expense to the government, as they have been done by the regular employés of the hospital.

Third. No property has been leased to the said medical college, and no money has been received for rent of any property.

Fourth. Various repairs have been made as they were needed on the buildings hired of the Howard University, such as patching roofs, repairing plastering, setting glass, anging windows and doors, mending floors, painting wards, &c., and they have been done mostly by the regular employés of the hospital. Among the more important improvements and repairs which have been made, are the following: The stable belonging to the government was removed up onto land embraced in the lease of the hospital property, in June, 1876, at a cost to the government of $40, which was paid to A. W. Collamore, house mover. In May, 1876, paid Nicholas Green for cleaning out and repairing well, $15. In May, 1876, paid for repairing roof of wards 1, 2, 7, and 8, also

floor of engine-room, to Thomas Carter, $18. For lumber from Wheatly Brothers, $60.21. December, 1876, paid Pettit & Dripps for repairing steam-boiler, $35. In May, 1877, paid for repairing coal-shed to Beverly Jackson (carpenter), $13; to Willet & Libbey for lumber, $47.17. In June, 1877, paid to Willet & Libbey $57.50 for shingles to shingle storehouse. In same month paid N. B. E. Brickford for gas-governor, $50; also paid for painting outside and in of wards 1 and 2, to J. F. James, $44.62. For painting roof of main building, to Fenton Horad, $10.12. Paid to J. R. Riggles, same month, for paint, $87.03.

Fifth. The details of the slush fund are furnished in the communication of Dr. P. Glennan concerning that fund, already before the committee.

Very respectfully,

G. S. PALMER, M. D.,
Surgeon-in-Chief.

FREEDMEN'S HOSPITAL, *November* 1, 1877.

To the honorable committee investigating the charges against the Freedmen's Hospital:

GENTLEMEN: I feel it my duty to state to you that I have the best of reasons for believing that the charges against me and against the management of this hospital are the offspring of a clique of persons whose sole interest in the matter is to get possession of the offices and to control the patronage of the institution.

I have been constantly beset for more than a year, yes, for two years, by O. S. B. Wall, directly and indirectly, to induce me to purchase supplies from him, and to purchase supplies from persons recommended by him. He has insisted that I should pay him more for the articles furnished by him than I could purchase them for from other persons, and he has stated to me personally that unless I gave him 38 cents per gallon for milk, when I was making a bargain with other parties to supply the same for 30 cents per gallon, that he would make trouble for me. He has also made statements and offers to other persons, if they would persuade me to give him the patronage of the hospital. I would respectfully suggest that the committee examine Dr. C. B. Purvis on this point; also William Hoover.

Inclosed I forward to the committee a letter (copy) written by Dr. Emiel Goerner to Dr. Purvis, setting forth the interest which Dr. A. T. Augusta has manifested in these charges. I would also suggest that Dr. Purvis be examined in reference to Dr. Augusta's proposition to procure my removal from this institution.

Very respectfully, yours,

G. S. PALMER, M. D.,
Surgeon-in-Chief.

WASHINGTON, D. C., *September* 13, 1877.

DEAR SIR: In our conversation yesterday, you said you had heard that I was assisting certain parties antagonistic to the Freedmen's Hospital. The parties are Professor Langston, Captain Wall, and his brother, and also Dr. Augusta. They came to my house to induce me to make charges against Dr. G. S. Palmer, surgeon in charge Freedmen's Hospital, of which I know nothing. Dr. Augusta *promised* to give me the *second place* if I would make charges against the surgeon-in-charge. I replied that I was *compelled* to *resist* any *temptations*, because I had *no* charges to make and *knew* of *nothing* to make one of, and informed Professor Langston and Captain Wall of the fact when they made similar requests. I write you, dear Doctor, to disabuse and correct any insinuation of which you have heard to the contrary.

Dear sir, I am *poor* but I have not lost my honor.

Yours, very respectfully,

E. GOERNER, M. D.

Dr. CHARLES B. PURVIS.

WASHINGTON, D. C., *October* 15, 1877.

DEAR SIR: I learn that a Mr. Robert T. Johnson, an inmate of the Freedmen's Hospital of this city, has preferred charges against Dr. Palmer, the surgeon in charge of the above-named hospital and, in fact, the entire management of the hospital. I do not know Dr. Palmer personally, but nevertheless I would like to see justice done where justice is due. I cannot speak of his hygienic system, or regulations of the elite medical profession rendered, but I can say, so far as I have learned from other inmates and their relatives, that the hospital was one of the best managed institutions

in the country. I will give the names of some of the inmates who were treated at this institution, under the charge of Dr. Palmer.

Rosenna Michells, (deceased) aunt of David Dixon, No. 1032 New Jersey avenue. I asked Rosenna if she wanted to come to my house to be cared for, when she replied that she would rather stay at this hospital because she has as good a care taken of her as she could have in anybody's house.

Mrs. Richard Hatton told me when I asked her how, and what kind of treatment did her husband get when an inmate of the Freedmen's Hospital, and up to the day of his death, when she replied, "Madame, my husband said, the day before he died, that he hoped that God would bless Dr. Palmer for the care and kind treatment that I received from him and his assistants."

This charge against Dr. Palmer is similar to the charges made against our Saviour, given up to the people by Pilate, and wearing the crown of thorns.

I am, most respectfully, yours,

MRS. ANNA O. TALBOT,
No. 1623 O Street, N. W., City.

The Hon. SECRETARY OF THE INTERIOR.

WASHINGTON, *October* 18, 1877.

SIR: A patient of the Freedmen's Hospital, named Peter Dorsey, was this day summoned by the investigating committee to appear before the commission and give his testimony, which was very important, in support of the charges made by me against the surgeon in charge of that institution. He promised this morning to attend as a witness when called, but mysteriously disappeared or was spirited away, that he failed to appear when sent for by the committee. Intimidation, allurements, espionage, and treachery have been invoked to circumvent me and defeat the government in its efforts to investigate the management of a government institution. I therefore request that, in conformity to your promise to me, you shall order the expulsion of said Peter Dorsey from the Freedmen's Hospital as unworthy to receive the munificence of the government.

With great respect, I am your obedient servant,

ROBERT T. JOHNSON.

Hon. CARL SCHURZ,
Secretary of Interior.

WASHINGTON, D. C., *October* 19, 1877.

SIR: I hereby withdraw the letter I sent to you concerning Mr. Peter Dorsey of 18th instant. Mr Dorsey this day appeared before the commission and gave his testimony in an intelligent, conscientious, and honorable manner, and he also satisfactorily explained his absence when summoned as a witness yesterday. Myself and my fellow patients desire that he should remain an inmate of the hospital until he is cured.

I am, with great respect, your obedient servant,

ROBERT T. JOHNSON.

Hon. CARL SCHURZ,
Secretary of the Interior.

FREEDMEN'S HOSPITAL AND ASYLUM,
Washington, D. C., October 7, 1876.

O. S. B. WALL, Esq.:

I have been comparing the prices charged by Charles Fink & Co. for groceries and supplies furnished this hospital, and I find they are very much higher than I pay for the same articles at other places. For instance, I pay for soda crackers 7 cents per pound, you charge 10 cents, a difference of 42 per cent. I pay for potatoes $1, you charge $1.25; difference 13$\frac{1}{3}$ per cent. I pay for cheese 15 cents per pound, you charge 20 cents; a difference of 33$\frac{1}{3}$ per cent. For candles I pay 16 cents, you charge 18; a difference of 12$\frac{1}{2}$ per cent. You see the average per centage is very large.

My directions to Dr. Glennan were to send a very large proportion of orders to you, and to continue the patronage to you so long as the quality of the goods and the prices were same as obtained at other places.

Very respectfully, &c.,

G. S. PALMER,
Surgeon-in-Chief.

WASHINGTON, D. C., *July* 25, 1877.

MY DEAR MOTHER: I am just in receipt of your very kind and affectionate letter, and am gratified beyond measure to know that you are getting better and abel to travel, and will be more than Happy to see you at any time and as soon as possible I am sorry that I cannot give you such cheering news as I find in your letter as I am still confined to my bed of sickness yett, and cannot say I am better yett I am at the Freedman Hospitall in Washington, and Have the best of attention as well as the Best of medical attention. I have 3 of the Best Physicians to see to me, and very kind and obliging nurse, and my Friends come to see me very often and are kind to me, but yet I miss that kind, motherly attention I could receive at your hands. How is my Brother and his wife remember me kindly to them and return my kiss to Ellen. Give my respects to all enquireing freinds, and accept my Best love for yourself. Write me soon and address my letter to me at Freedman Hospital, 7th st. Washington, D. C.

I remain your effectionate son,

ALLEN BLACK.

Identified by the mother of writer as the hardwriting of Allen Black.

CORNER BEALE AND MONROE STREETS,
Georgetown, August 25, 1877.

SIR: I herewith submit formal charges of official malfeasance and delinquency against Dr. Gideon S. Palmer, surgeon-in-charge, and the medical staff of the Freedmen's Hospital in the city of Washington, which charges are based on my own personal knowledge and experience as a patient in that institution or on trustworthy information derived from authentic sources. As vouchers for my veracity, respectability, and competency I refer to Hon. John A. Logan, Hon. A. H. Cragin, Hon. Hannibal Hamlin, Hon. John F. Langston, William H. Lee, esq., Georgetown, and Major A. C. Richards, all of whom are well acquainted with me.

The charges I am willing to substantiate by satisfactory evidence at such time and in such manner as you may designate.

The nurses, who would be most important witnesses in an investigation, are appointed and removed by the medical staff, and, as they would be unwilling to lose their situations, they would be intimidated from giving testimony while the present physicians are in power. Most of the patients are poor, friendless, and homeless, and they, also, would be afraid to detail their grievances, lest they should be discharged from the institution and turned adrift on the world without food or shelter. It is respectfully suggested, therefore, that the medical staff should be suspended during the investigation, should one be instituted, to the end that the full, exact, and impartial truth might be elicited as to the management of said hospital, the treatment of the patients, and the expenditures of the appropriation made to that institution.

With sentiments of respect, your obedient servant,

ROBERT S. JOHNSON.

Hon. CARL SCHURZ,
Secretary of the Interior.

Admitted to be the draught of a proposed agreement between American Palm Pulp and Paper Company and John J. Calvert, esq., at Freedmen's Hospital.

WASHINGTON CITY,
District of Columbia:

Know all persons by these presents that I, James P. Herron, of the city and District aforesaid, am bound unto John James Calvert, of the same place, in the sum of sixteen hundred and fifty ($1,650) dollars, for the payment of which I hereby bind myself, my heirs and assigns. Witness my hand this day of June, A. D. 1876.

The condition of the above bond is such that I, James P. Herron, have bargained and sold to the said twenty-four (24) shares of stock ($100 each) in the American Palm Pulp and Paper Company, eight (8) shares of which fully paid up, and free from assessment by said company for any purpose, sixteen (16) of said shares of stock subject to assessment by said Co., but not to exceed fifty (50) per cent., that is fifty (50) dollars in all on each share. Said twenty-four (24) shares of stock as set forth to be delivered by said American Palm Pulp and Paper Company to the said in two (2) certificates, one for eight (8) shares unassessable, and one for sixteen (16) shares assessable (but not to exceed fifty per cent. in all) by said company. When it is prepared to issue certificates of stock, then the aforesaid twenty-four shares shall

forthwith be conveyed as set forth. For which I hereby acknowledge, by receipt in full acceptably paid up on said stock as set forth. In which premises any failure or default on my part causing said American Palm Pulp and Paper Co. not to issue said twenty-four (24) shares of stock, eight (8) of which fully paid and free from assessment as aforesaid, then the bond herewith annexed to take effect.

Freely executed by me, in presence of witnesses, the day and date first named.

Artickles of agrement made and entered into this twenty-first day of July, A. D. 1871, between Bvt. Lieut. Col. J. M. Brown, chief quartermaster Birrean R., F. and A. L. for and in behalf of the United States of the first part, and Henry Dickson and William King, of the city of Washington, D. C., doing business under the style of Dickson and King, of the second part.

This agrement witnesseth, that the said Bvt. Lieut. Col. J. M. Brown, C. Q. M., for and in behalf of the United States, and the said Dickson and King, their heirs, executors, and administrators, have covenanted and agreed and by these presents do mutually covenant and agree to and with each other, as follows, viz:

I. That the said Dickson and King shall furnish, deliver and cord up, at the Freedmen's Hospital, 7th st., beyond Boundry st., for the use of the Bureau Refugees, Freedmen, and Abandoned Lands, in the District of Columbia, on or before the fifteenth day of September, 1871, one hundred and fifty (150) cords of oak wood, to be well seasoned, sound, and free from small and crooked limbs. All the above oak wood to be inspected and measured as provided for by the act of Congress approved July 11th, 1870, regulating the purchase of fuel in the District of Columbia.

II. In consideration whereof, the said Bvt. Lieut. Col. J. M. Brown, chief quartermaster, for and in behalf of the United States, agrees that the said Dickson and King shall be paid upon producing the certificate of the proper inspecting-officer, as required by the act of Congress, at the rate of six $\frac{97}{100}$ ($6.97) dollars per cord for oak wood furnished, delivered, and corded, as herein provided.

III. It is expressly understood and agreed that no member of Congress, officer, agent, or employee of the United States shall be admitted to any benefit whatsoever to arise herefrom. In witness whereof the undersigned have hereunto sett their hands and seals the day and year above first written.

J. M. BROWN, [s. s.]
Bvt. Lieut. Col. & C. Q.

In presence of—
E. R. BELCHER.

HENRY DICKSON. [s. s.]
WILLIAM KING. [s. s.]

In presence of—
W. H. SQUIRES,
Witness to the signatures of Henry Dickson and William King.
Signed in quadruplicate.
Two copies duly stamped.

Memorandum of an agreement between the Howard University of the first part and G. S. Palmer, surgeon-in-chief of the Freedmen's Hospital for the Interior Department of the United States of the second part, both of the county of Washington in the District of Columbia, whereby the said Howard University has agreed to let and does hereby let to the said party of the second part the buildings and grounds known as the Freedmen's Hospital in said county of Washington by the year, commencing on the first day of July, A. D. 1875, and ending on the thirtieth day of June, A. D. 1876, at and for the sum of four thousand ($4,000) dollars per annum, payable monthly on the last day of each month.

And the said G. S. Palmer, surgeon-in-chief as aforesaid, has agreed to take and does hereby take and hold the said premises as tenant as aforesaid upon the following conditions, to wit:

First. To pay to the treasurer of the said Howard University the said sum of four thousand ($4,000) dollars rent, in monthly installments.

Second. To furnish light and heat for that portion of the main brick building necessary for, and in use of the medical department of the said university.

Third. To consent, and does hereby consent, to the reserved right and use of such portion of the said premises, as has been used by said medical department, and to furnish facilities to the professors and others, of the said medical department of the said university, for clinical instruction in connection with the said medical department.

Fourth. To put the engine in said hospital in good repair, and direct the use of

the same one hour per day (Sundays excepted) for pumping water to the main buildings of the said Howard University.

Fifth. To keep the buildings and improvements belonging to the said hospital premises in good repair.

Sixth. The Howard University reserves the rights mentioned in the above-named conditions to be performed by the said G. S. Palmer, surgeon-in-chief, as aforesaid.

In testimony whereof the parties above mentioned have hereunto set their hands and seals this seventeenth day of July, A. D. 1875.

(Signed) J. B. JOHNSON,
Secretary and Treasurer of Howard University.

(Signed) G. S. PALMER,
Surgeon-in-Chief Freedmen's Hospital, for the Interior Department, United States.

Witness:
(Signed) P. GLENNAN, *Executive Officer,*
To G. S. Palmer.

Witness:
(Signed) J. W. CAMP,
To J. B. Johnson.

Triplicates.

Memorandum of an agreement between the Howard University and Robert Reyburn, surgeon-in-charge of the Freedmen's Hospital for the Interior Department of the United States, both of the county of Washington, in the District of Columbia, whereby the said Howard University has agreed to let and does hereby let to the said party of the second part the buildings and grounds known as the Freedmen's Hospital, in said county of Washington, by the year, commencing on the first day of July, A. D. 1874, and ending on the 30th day of June, A. D. 1875, at and for the sum of four thousand (4,000) dollars per annum, payable monthly on the last day of each month.

And the said Robert Reyburn, surgeon-in-charge, as aforesaid, has agreed to take and does hereby take and hold the said premises as tenant as aforesaid, upon the following conditions, to wit:

First. To pay to the treasurer of the said Howard University the said sum of four thousand (4,000) dollars rent in monthly installments.

Second. To furnish light and heat for that portion of the main brick building necessary for and in use of the medical department of the said university.

Third. To consent, and does hereby consent to the reserved right and use of such portion of the said premises as has been used by said medical department, and to furnish facilities to the professors and others of the said medical department of the said university for clinical instruction in connection with the said medical department.

Fourth. To put the engine in said hospital in good repair, and direct the use of the same one hour per day (Sundays excepted) for pumping water to the main building of the said Howard University.

Fifth. To keep the buildings and improvements belonging to the said hospital premises in good repair.

Sixth. The Howard University reserves the rights mentioned in the above-named conditions to be performed by the said Robert Reyburn, surgeon, as aforesaid.

In testimony whereof the parties above mentioned have hereunto set their hands and seals this 29th day of September, A. D. 1874.

(Signed) JOHN M. LANGSTON,
Vice President and acting President Howard University.

(Signed) ROBERT REYBURN, M. D.,
Surgeon in charge of Freedmen's Hospital, for the Interior Department, United States.

Witness:
(Signed) P. GLENNAN, M. D.
(Signed) J. B. JOHNSON.
(Duplicates.)

FREEDMEN'S HOSPITAL, *October* 13, 1877.

To the honorable committee, T. B. Hood, George Ewing, J. H. Walsh, investigating charges against the Freedmen's Hospital:

GENTLEMEN: The complainant having called for a written statement, setting forth in detail the several sums of money that have accrued from each and every sale of horses, barrels, rags, hardware, iron pipe, iron scraps, swill, and all other property belonging to the Freedmen's Hospital, that have been sold or disposed of at public or private sale, or otherwise, at any time during my official term as surgeon in charge, also

to give names of purchasers, and when the money was covered into the Treasury, or what other disposition was made of the same, I hereby respond as follows:

1875, June 8.—Sold at auction, 157 pairs shoes, by Duncanson & Bros., auctioneers, and received therefor a check for	$29 34
Thomas Dowling, auctioneer:	
June 15, Sold at auction, 120 pairs shoes, and received therefor a check amounting to	41 04
	70 38
Turned the amount into the Interior Department July 26, 1875.	
1875, October 26.—Sold as above, Thomas Dowling, auctioneer, 120 pairs shoes, and received check for amount of sales	32 96
Turned the same into the Department of the Interior October 29, 1875.	
1875, February 15.—I sold at public auction 590 pairs of shoes, and received therefor check for	106 65
And turned the same into the Department of the Interior February 21, 1876.	
1877, May 5.—Sold at auction one bay horse	17 00
May 12.—Sold as above, one brown horse	16 00
	33 00
Deduct commission to auctioneer	3 30
Received	29 70
Turned the same into the Department of the Interior June 11, 1877.	

The foregoing is a detailed account of all the articles which I have sold and the disposition which I have made of the proceeds of the sales.

I have allowed Dr. P. Glennan, the executive officer, to sell the swill, manure, old barrels, and rags, and to keep the proceeds in a slush-fund, and to pay out the same for postage-stamps, newspapers, car-fare for messengers or patients, for freight-bills, indelible ink, twine, tacks, &c., such little articles as cannot be well paid for on a voucher. I have received none of this money myself, except as I have asked him to pay for some one of the small articles. I found this custom, which is a common one in hospitals, existing here, and I allowed it to continue. Inclosed I send statement of Dr. Glennan in reference thereto.

Very respectfully,

G. S. PALMER.

Statement showing average number of patients, &c., per month, from July, 1874, to October, 1877.

Month and year.	Number.	Month and year.	Number.
1874.		1876.	
July	296	February	277
August	283	March	275
September	281	April	261
October	278	May	266
November	275	June	265
December	277	July	268
		August	270
1875.		September	262
January	275	October	269
February	276	November	265
March	285	December	269
April	281		
May	274	1877.	
June	269	January	279
July	264	February	280
August	269	March	293
September	248	April	285
October	248	May	270
November	246	June	275
December	264	July	270
		August	255
1876.		September	246
January	274	October	255

Statement showing amount of meat used at Freedmen's Hospital per month from July, 1874, to October, 1877, inclusive.

	Pounds.
JULY, 1874.	
Fresh beef	1,560
Salt beef	1,420
Mutton	80
Total	3,060
AUGUST, 1874.	
Fresh beef	1,700
Salt beef	1,165
Bacon	900
Salt pork	200
Mutton	100
Total	4,065
SEPTEMBER, 1874.	
Fresh beef	1,540
Salt beef	1,300
Bacon	2,000
Salt pork	1,000
Mutton	80
Ham	302
Total	6,222
OCTOBER, 1874.	
Fresh beef	1,575
Salt beef	1,305
Salt pork	800
Bacon	900
Mutton	100
Total	4,680
NOVEMBER, 1874.	
Fresh beef	1,305
Salt beef	1,040
Salt pork	800
Bacon	1,350
Mutton	80
Total	4,575
DECEMBER, 1874.	
Fresh beef	1,440
Salt beef	1,365
Salt pork	992
Bacon	1,339
Mutton	80
Ham	290
Total	5,506
JANUARY, 1875.	
Fresh beef	1,605
Salt beef	1,160
Salt pork	1,400
Bacon	1,705
Mutton	100
Ham	240
Total	6,210
FEBRUARY, 1875.	
Fresh beef	1,380
Salt beef	1,180
Salt pork	700
Bacon	700
Mutton	80
Ham	130
Total	4,170
MARCH, 1875.	
Fresh beef	1,485
Salt beef	1,330
Salt pork	970
Bacon	1,240
Mutton	80
Total	5,105
APRIL, 1875.	
Fresh beef	1,415
Salt beef	1,265
Salt pork	1,000
Bacon	1,200
Mutton	80
Ham	206
Total	5,166
MAY, 1875.	
Fresh beef	1,575
Salt beef	1,200
Salt pork	1,099
Bacon	1,100
Mutton	100
Ham	187¾
Total	5,261¾
JUNE, 1875.	
Fresh beef	1,225
Salt beef	1,200
Salt pork	1,311
Mutton	80
Bacon	1,100
Ham	236¼
Total	5,152¾
JULY, 1875.	
Fresh beef	1,350
Salt beef	1,145
Salt pork	840
Bacon	877
Mutton	100
Ham	125
Total	4,437
AUGUST, 1875.	
Fresh beef	1,190
Salt beef	1,070
Salt pork	1,002
Bacon	600
Mutton	80
Ham	153
Total	4,095
SEPTEMBER, 1875.	
Fresh beef	1,150
Salt beef	1,035
Salt pork	1,000
Bacon	600
Mutton	80
Ham	95
Total	3,960
OCTOBER, 1875.	
Fresh beef	1,275
Salt beef	985
Salt pork	1,025
Bacon	600
Mutton	100
Ham	154
Total	4,139
NOVEMBER, 1875.	
Fresh beef	1,125
Salt beef	945
Salt pork	1,175
Bacon	612
Mutton	80
Ham	138
Total	4,075

Statement showing amount of meat used at Freedmen's Hospital, &c.—Continued.

	Pounds.
DECEMBER, 1875.	
Fresh beef	1,170
Salt beef	1,170
Salt pork	1,168
Bacon	600
Mutton	110
Ham	257
Total	4,475
JANUARY, 1876.	
Fresh beef	1,470
Salt beef	1,160
Salt pork	1,265
Bacon	600
Mutton	125
Ham	244
Total	4,864
FEBRUARY, 1876.	
Fresh beef	1,351
Salt beef	1,169
Salt pork	1,204
Bacon	608
Mutton	125
Ham	240
Total	4,697
MARCH, 1876.	
Fresh beef	1,457
Salt beef	1,296
Salt pork	1,192
Bacon	602
Mutton	135
Ham	212
Total	4,894
APRIL, 1876.	
Fresh beef	1,535
Salt beef	1,133
Salt pork	1,213
Bacon	637
Mutton	155
Ham	214
Total	4,887
MAY, 1876.	
Fresh beef	1,445
Salt beef	1,271
Salt pork	982
Bacon	627
Mutton	120
Ham	193
Total	4,638
JUNE, 1876.	
Fresh beef	1,410
Salt beef	1,250
Salt pork	1,000
Bacon	818
Mutton	120
Ham	219
Total	4,817
JULY, 1876.	
Fresh beef	1,432
Salt beef	1,092
Salt pork	1,203
Bacon	600
Mutton	150
Ham	135
Total	4,612

	Pounds.
AUGUST, 1876.	
Fresh beef	1,250
Salt beef	1,300
Salt pork	1,400
Bacon	600
Mutton	120
Ham	204
Total	4,884
SEPTEMBER, 1876.	
Fresh beef	1,400
Salt beef	1,100
Salt pork	1,194
Bacon	600
Mutton	150
Ham	187
Total	4,631
OCTOBER, 1876.	
Fresh beef	1,450
Salt beef	1,225
Salt pork	1,195
Bacon	600
Mutton	120
Ham	256½
Total	4,846½
NOVEMBER, 1876.	
Fresh beef	1,450
Salt beef	1,290
Salt pork	1,603
Bacon	600
Mutton	120
Ham	223
Total	5,286
DECEMBER, 1876.	
Fresh beef	1,500
Salt beef	1,200
Salt pork	1,200
Bacon	600
Mutton	150
Ham	339
Total	5,079
JANUARY, 1877.	
Fresh beef	1,710
Salt beef	1,510
Salt pork	1,405
Bacon	600
Mutton	150
Ham	307
Total	5,682
FEBRUARY, 1877.	
Fresh beef	1,737½
Salt beef	1,355
Salt pork	1,168
Bacon	600
Mutton	160
Ham	263
Total	5,283½
MARCH, 1877.	
Fresh beef	1,900
Salt beef	1,560
Salt pork	1,200
Bacon	600
Mutton	215
Ham	250
Total	5,745

Statement showing amount of meat used at Freedmen's Hospital, &c.—Continued.

April, 1877.	Pounds.
Fresh beef	1,885
Salt beef	1,415
Salt pork	1,200
Bacon	600
Mutton	200
Ham	246
Total	5,546

May, 1877.	
Fresh beef	1,960
Salt beef	1,625
Salt pork	1,185
Bacon	600
Mutton	200
Ham	299
Total	5,869

June, 1877.	
Fresh beef	2,170
Salt beef	1,540
Salt pork	997
Bacon	400
Mutton	250
Ham	247½
Total	5,604½

July, 1877.	
Fresh beef	2,190
Salt beef	1,420
Salt pork	1,200

July, 1877—Continued.	Pounds.
Mutton	200
Ham	333
Total	5,343

August, 1877.	
Fresh beef	2,220
Salt beef	1,570
Salt pork	1,200
Mutton	220
Ham	290
Total	5,500

September, 1877.	
Fresh beef	2,270
Salt beef	1,390
Salt pork	968
Bacon	531
Mutton	280
Ham	405
Total	5,844

October, 1877.	
Fresh beef	2,440
Salt beef	1,460
Salt pork	800
Bacon	405
Mutton	235
Ham	341
Total	5,681

Statement showing amount of flour used at Freedmen's Hospital per month from July, 1874, *to October,* 1877, *inclusive.*

Month and year.	Barrels.
1874.	
July	43
August	41
September	43
October	45
November	47
December	47
1875.	
January	48
February	45
March	48
April	46
May	45
June	50
July	41
August	41
September	42
October	41
November	42
December	46
1876.	
January	40
February	41
March	40
April	41
May	42
June	42
July	43
August	42
September	41
October	45
November	46
December	44
1877.	
January	45
February	44
March	45
April	52
May	43
June	48
July	41
August	19
September	28
October	32

Statement showing amount of meat used at Freedmen's Hospital, &c.—Continued.

DECEMBER, 1875.	*Pounds.*
Fresh beef	1,170
Salt beef	1,170
Salt pork	1,168
Bacon	600
Mutton	110
Ham	257
Total	4,475

JANUARY, 1876.	
Fresh beef	1,470
Salt beef	1,160
Salt pork	1,265
Bacon	600
Mutton	125
Ham	244
Total	4,864

FEBRUARY, 1876.	
Fresh beef	1,351
Salt beef	1,169
Salt pork	1,204
Bacon	608
Mutton	125
Ham	240
Total	4,697

MARCH, 1876.	
Fresh beef	1,457
Salt beef	1,296
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JUNE, 1876.	
Fresh beef	1,410
Salt beef	1,250
Salt pork	1,000
Bacon	818
Mutton	120
Ham	219
Total	4,817

JULY, 1876.	
Fresh beef	1,432
Salt beef	1,092
Salt pork	1,203
Bacon	600
Mutton	150
Ham	135
Total	4,612

AUGUST, 1876.	*Pounds.*
Fresh beef	1,290
Salt beef	1,260
Salt pork	1,408
Bacon	600
Mutton	120
Ham	206
Total	4,884

SEPTEMBER, 1876.	
Fresh beef	1,400
Salt beef	1,100
Salt pork	1,194
Bacon	600
Mutton	150
Ham	187
Total	4,631

OCTOBER, 1876.	
Fresh beef	1,450
Salt beef	1,225
Salt pork	1,195
Bacon	600
Mutton	120
Ham	256½
Total	4,846½

NOVEMBER, 1876.	
Fresh beef	1,450
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Ham	339
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Mutton	200
Ham	299
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June, 1877.	
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Mutton	220
Ham	290
Total	5,500
September, 1877.	
Fresh beef	2,270
Salt beef	1,390
Salt pork	968
Bacon	531
Mutton	280
Ham	405
Total	5,844
October, 1877.	
Fresh beef	2,440
Salt beef	1,460
Salt pork	800
Bacon	405
Mutton	235
Ham	341
Total	5,681

Statement showing amount of flour used at Freedmen's Hospital per month from July, 1874, *to October,* 1877, *inclusive.*

Month and year.	Barrels.
1874.	
July	43
August	41
September	43
October	45
November	47
December	47
1875.	
January	48
February	45
March	48
April	46
May	45
June	50
July	41
August	41
September	42
October	41
November	42
December	46
1876.	
January	40
February	41
March	40
April	41
May	42
June	42
July	43
August	42
September	41
October	45
November	46
December	44
1877.	
January	45
February	44
March	45
April	52
May	43
June	48
July	41
August	19
September	28
October	32

Statement showing amount of sugar, coffee, rice, hominy, and chickens used at Freedmen's Hospital per month from July, 1874, to October, 1877, inclusive.

	Sugar.	Coffee.	Rice.	Hominy.	Chickens.
1874.	*Pounds.*	*Pounds.*	*Pounds.*	*Pounds.*	*Dozen.*
July	1,300	290	240	800	8⅔
August	1,200	240	210	600	7½
September	1,600	360	300	800	9½
October	1,300	360	220	600	5⅔
November	1,500	320	300	800	4
December	1,500	360	200	800	4⅓
1875.					
January	1,400	370	360	800	4
February	1,500	390	225	800	4
March	1,250	360	165	600	4
April	1,300	360	180	600	4½
May	1,050	360	200	500	6½
June	1,425	460	321	800	6½
July	1,000	235	150	325	6½
August	1,000	235	276	500	5½
September	950	255	240	500	6
October	875	270	190	350	6
November	1,000	240	220	600	5½
December	1,000	280	170	400	3⅓
1876.					
January	1,050	290	240	600	4½
February	1,050	280	230	600	4½
March	1,150	270	180	600	5½
April	900	270	230	600	5½
May	1,150	270	90	600	6 5/12
June	1,300	360	205	800	7 1/12
July	775	180	40	200	6
August	1,150	270	200	600	6½
September	1,050	270	150	474	6
October	1,075	230	130	400	8⅓
November	1,150	230	100	400	8⅓
December	1,150	270	80	500	7
1877.					
January	1,150	270	130	400	12
February	1,050	270	130	600	8
March	1,250	270	80	400	9
April	1,170	246	120	400	11
May	1,175	270	120	600	12
June	1,387½	270	120	345	13
July	987	130	120	200	9
August	1,188	190	180	600	11½
September	1,068	210	200	200	9⅓
October	1,672	270	200	200	11 11/12
	18,448	3,846	2,150	6,539	189
	12,098	2,396	1,400	3,945	105
Average per month per capita	4.7	0.9	0.54	1.53	.....

Statement showing amount of flour, butter, eggs, and milk used at Freedmen's Hospital during the ten months ending October, 1877.

	Flour.	Butter.	Eggs.	Milk.	Number of inmates.
	Barrels.	*Pounds.*	*Dozen.*	*Gallons.*	
January	45	193	75	248	279
February	44	190	90	226	280
March	45	236	150	250½	293
April	53	217	150	282	285
May	43	214	90	294½	270
June	47	150	110	299	275
July	41	228	140	321½	219
August	19	180	120	328	227
September	28	287	180	377	218
October	32	328	190	382	227
Total	397	†2,225	‡1,295	§3,008½	2,573
Pounds per barrel	196				
Total, pounds	*77,812				

* About 1 pound per capita per diem.
† About 15 ounces per capita per month.
‡ About ½ dozen per capita per month.
§ About 1¼ gallon per capita per month.

MEATS.

1877:	Lbs.	Oz.
January, 656 pounds	20	6
February, 673 pounds	18	13
March, 632 pounds	19	10
April	19	2
May	21	12
June	20	6
July	24	6

	Lbs.	Oz.
Of meats the quantity from January to October, 1877, inclusive, is	56,098	
Average per capita	218	4
Average per month per capita	21	13

Statement showing amount of butter, eggs, and milk used at Freedmen's Hospital per month from July, 1874, to October, 1877, inclusive.

July, 1874.		
Butter	pounds	80
Eggs	dozen	40
Milk	gallons	267½
August, 1874.		
Butter	pounds	200
Eggs	dozen	120
Milk	gallons	268½
September, 1874.		
Butter	pounds	190
Eggs	dozen	200
Milk	gallons	237½
October, 1874.		
Butter	pounds	188
Eggs	dozen	160
Milk	gallons	251½
November, 1874.		
Butter	pounds	216
Eggs	dozen	160
Milk	gallons	242
December, 1874.		
Butter	pounds	210
Eggs	dozen	120
Milk	gallons	250
January, 1875.		
Butter	pounds	192
Eggs	dozen	160
Milk	gallons	250½
February, 1875.		
Butter	pounds	160
Eggs	dozen	120
Milk	gallons	226
March, 1875.		
Butter	pounds	212
Eggs	dozen	145
Milk	gallons	250
April, 1875.		
Butter	pounds	164
Eggs	dozen	120
Milk	gallons	245
May, 1875.		
Butter	pounds	140
Eggs	dozen	170
Milk	gallons	243½
June, 1875.		
Butter	pounds	157
Eggs	dozen	120
Milk	gallons	214
July, 1875.		
Butter	pounds	148
Eggs	dozen	150
Milk	gallons	219½
August, 1875.		
Butter	pounds	153
Eggs	dozen	80
Milk	gallons	219
September, 1875.		
Butter	pounds	156
Eggs	dozen	150
Milk	gallons	212
October, 1875.		
Butter	pounds	152
Eggs	dozen	110
Milk	gallons	219½
November, 1875.		
Butter	pounds	180
Eggs	dozen	115
Milk	gallons	198½
December, 1875.		
Butter	pounds	171
Eggs	dozen	120
Milk	gallons	209½
January, 1876.		
Butter	pounds	153
Eggs	dozen	120
Milk	gallons	219
February, 1876.		
Butter	pounds	203
Eggs	dozen	180
Milk	gallons	205
March, 1876.		
Butter	pounds	132
Eggs	dozen	114
Milk	gallons	219½
April, 1876.		
Butter	pounds	142
Eggs	dozen	120
Milk	gallons	217
May, 1876.		
Butter	pounds	144
Eggs	dozen	145
Milk	gallons	203½
June, 1876.		
Butter	pounds	159
Eggs	dozen	120
Milk	gallons	201
July, 1876.		
Butter	pounds	149
Eggs	dozen	125
Milk	gallons	219
August, 1876.		
Butter	pounds	199
Eggs	dozen	185
Milk	gallons	188

pounds of the 400 pounds used daily to pump the water up to the university. This I also judge is a fair estimate. One hundred pounds of coal per day, at the present price of coal, will amount to less than $80 a year for the actual expense to the government of pumping water for the university, and this is a part of rent of the hospital property.

Very respectfully,

G. S. PALMER, M. D.,
Surgeon-in-Chief.

Full or mess-room diet-table.

Breakfast.		Dinner.		Supper.	
SUNDAY.	Oz.		Oz.		Oz.
Bread	4	Bread	4	Bread	4
Hash (meat and potatoes)	6	Beef, roast	8	Cheese	2
Coffee (milk and sugar)	12	Potatoes	6	Tea (milk and sugar)	12
Butter	¾	Gravy	2		
		Bread pudding	4		
MONDAY.					
Corn bread	8	Bread	4	Bread	4
Hominy with	4	Pork	6	Sirup	2
Sirup or gravy	2	Beans	2	Tea (milk and sugar)	12
Coffee (milk and sugar)	12	Potatoes	6		
Bacon	4	Bean soup	12		
TUESDAY.					
Bread	4	Bread	4	Bread	4
Rice	3	Fresh beef	8	Stewed fruit	3
Sirup	2	Potatoes	6	Tea (milk and sugar)	12
Coffee (milk and sugar)	12	Beef soup	12		
Butter	¾				
WEDNESDAY.					
Corn bread	8	Bread	4	Bread	4
Hash (meat and potatoes)	6	Pork	6	Sirup	2
Coffee (milk and sugar)	12	Beans	2	Tea (milk and sugar)	12
Butter	¾	Potatoes	6		
		Bean soup	12		
THURSDAY.					
Bread	4	Bread	4	Bread	4
Hominy with	4	Corned beef	8	Stewed fruit	3
Sirup or gravy	2	Potatoes	6	Tea (milk and sugar)	12
Coffee (milk and sugar)	12	Cabbage	8		
Bacon	4				
FRIDAY.					
Bread	4	Bread	4	Bread	4
Hash, codfish	6	Mackerel	6	Cheese	2
Coffee (milk and sugar)	12	Potatoes	6	Tea (milk and sugar)	12
Rice	3	Rice-pudding	4		
Butter	¾	Tea (milk and sugar)	13		
SATURDAY.					
Bread	4	Bread	4	Bread	4
Hominy	4	Stew (beef, potatoes, onions, flour, pepper, and salt)	16	Sirup	2
Sirup or gravy	2			Tea (milk and sugar)	12
Coffee (milk and sugar)	12				
Bacon	4				

NOTE.—Four ounces of bread is put down in the table as a ration, but each patient who wants more gets it.

Vegetables, such as turnips, beets, tomatoes, and sweet potatoes, and fruits in the season, are always furnished in addition to the above.

Annual r port upon the Freedmen's Hospital and Asylum for the fiscal year ending June 30, 1877, G. S. Palmer, M. D., surgeon-in-chief.

FREEDMEN'S HOSPITAL, *Washington, October* 13, 1877.

SIR: I have the honor to transmit the annual report of the Freedmen's Hospital and Asylum for the fiscal year ending June 30, 1877, as follows:

The whole number of patients in hospital and asylum during the year was seven hundred and sixty-three (763), viz:

Remaining in hospital and asylum at date of last annual report			263
Admitted to hospital during the year, viz: Males colored	183		
Admitted to the hospital during the year, viz: Females, colored	145		
Born, males	25		
Born, females	18		
Whole number of colored		371	
Admitted to hospital during the year, viz: Males, white	105		
Admitted to hospital during the year, viz: Females	21		
Born, males	1		
Born, females	2		
Whole number of white		129	
Total number admitted to hospital			500
Total number treated and supported in hospital and asylum			763
Of the above patients there were discharged cured			265
Discharged relieved			100
Died			109
Still-born			12
			486
Remaining in hospital and asylum June 30, 1877			277

The Colored Orphans' Home and Asylum, containing about 115, children and attendants, has been furnished with medicines and medical attendance during the year, and subsistence has been furnished to 25 of them, who are included in the aggregate number of this hospital.

Besides the above over three thousand prescriptions have been dispensed to the poor who are constantly calling at this hospital for medical aid.

The large number of deaths in proportion to the number treated is accounted for by the character of the cases received. Some who are attacked by disease continue to labor as long as they are able, and then provide for themselves till their scanty means are exhausted, after which they come to the hospital to die; others, finding themselves affected with an incurable disease, give up all hope, cease all effort, and come to the hospital for medical aid and the comforts of a home till relieved by death.

Fifty cases of the 500 admitted to hospital were consumption, most of which necessarily prove fatal in this class of patients.

The twenty-eight and a half per cent. of still-births is readily accounted for by the fact that the mother in each case was badly diseased, or had tampered with herself in order to obtain premature relief from her offspring. Four of the 42 births were cases of twins.

The nativity of the patients admitted to hospital was as follows:

Virginia	171	Canada	2
Maryland	102	New Hampshire	2
District of Columbia	89	Massachusetts	2
Ireland	35	Scotland	2
New York	17	Indian Territory	1
Pennsylvania	15	Illinois	1
Germany	14	Indiana	1
South Carolina	5	Mississippi	1
England	5	Maine	1
Georgia	4	Kentucky	1
North Carolina	4	Florida	1
West Virginia	3	Nova Scotia	1
Ohio	3	France	1
Tennessee	3	Italy	4
Louisiana	3	Unknown	3
West Indies	3		

The diseases and conditions for which the patients were admitted were as follows, viz:

For contused wound of head	5	Ulceration rectum	3
Punctured wounds	4	Hemorrhage	1
Incised wounds	5	Stomatitis	2
Fractured skull	1	Gastritis	1
Fractured clavicle	2	Dropsy, hepatic	1
Fractured leg	1	Fistula in ano	1
Burns	2	Albuminuria	2
Gunshot wounds	2	Stricture urethra	2
Contusion	1	Orchitis	3
Frost-bite	5	Retention of urine	2
Exposure	1	Urethritis	1
Amputation	3	Cholera morbus	1
Abscess	11	Scarlatina	3
Chronic ulcer	13	Measles	1
Coxæ morbus	1	Erysipelas	8
Inflamed knee-joint	1	Varicella	1
Caries	1	Typhoid fever	4
Anthrax	1	Remittent fever	16
Gangrene	1	Intermittent fever	15
Polypus	1	Diarrhea	8
Leprosy	1	Tonsilitis	3
Amaurosis	2	Congestive chill	1
Keratitis	1	Syphilis	24
Ophthalmia	2	Gonorrhœa	5
Iritis	2	Alcoholism	7
Dyspepsia	3	Cancer	1
Hernia	1	Rheumatism	45
Psoas abscess	2	Acute bronchitis	12
Lumbar abscess	1	Emphysema	1
Scrofula	5	Chronic bronchitis	5
Phthisis pulmonalis	50	Congestion of lungs	2
Hæmoptysis	1	Pleurisy	2
Dementia	1	Ozæna	4
Apoplexy	1	Pregnancy	41
Softening of brain	2	Leucorrhœa	1
Insanity	3	Amenorrhœa	1
Epilepsy	5	Prolapsus uteri	1
Paraplegia	1	Hypertrophy	2
Hemiplegia	8	Hysteria	2
Paralysis	6	Puerperal peritonitis	1
Convulsions	1	Puerperal convulsions	2
Tetanus	1	Ovarian tumor	1
Congestion of brain	1	Endometritis	1
Trismus nascentium	2	Peritonitis	3
Neuralgia	1	Born	46
Sciatica	1	Dentition	1
Hypertrophy of heart	3	Old age	7
Dropsy, general	4	Malingering	1
Dropsy, cardiac	2	General debility	4
Asthma	1	Convalescent	11
Pneumonia	9		

The appropriation for the support of this hospital for the last fiscal year was $45,000, and the number of days of support afforded to patients was about 98,000, which shows the daily cost of each patient for subsistence, medical attendance, and clothing to a part of them, to be less than 46 cents per day.

The necessity for the continuance of this hospital is manifest from the constantly increasing number of applications for the admission of persons suffering from accidents and wounds and from severe diseases. The location of the hospital is central and healthy. Many of the patients are non-residents, who must be provided for somewhere by the general government when they fall sick within the District.

Agreeably to instructions from the honorable Secretary of the Interior, under date of August 17, 1877, I have prepared and submit herewith an estimate of the cost of establishing a bakery on the hospital grounds, to the end that the bread may be furnished at a less price. (See inclosure marked "A.") And, as recommended in the same communication, I have asked for a "board of survey for the purpose of condemning such articles as may be of no further use."

The rent of the hospital building and grounds, which has been heretofore established at $4,000 per annum, is limited by the terms of appropriation for the support of this hospital for the fiscal year commencing July 1, 1877, to $2,000, and the lessor, *i. e.*, the trustees of Howard University, have, through their president, addressed a communication to the honorable Secretary of the Interior on the subject, which is herewith transmitted. (See inclosure marked "B.")

The bill making appropriation for the support of this hospital for the fiscal year commencing July 1, 1877, itemizes the expenditures in such a way that the usefulness of the institution is very much impaired. It appropriates specific amounts for specified purposes, which, in some instances, is too much, and in others not enough. The bill appropriates $2,500 for medicines and medical supplies, which is 50 per cent. above the amount ever used for that purpose; but it makes no provision for payment of laundresses, watchmen, steward, house-physician, or clerk, without the employment of which the main object of the appropriation would be almost entirely defeated. It is impossible to determine in advance just what amount will be required for each separate object of expenditure.

It is respectfully recommended that the whole amount be appropriated so that it can be expended under the direction and according to the discretion of the honorable Secretary of the Interior, or under a board of visitors to be appointed by him.

Very respectfully, your obedient servant,

G. S. PALMER, M. D.,
Surgeon-in-Chief.

A.

Estimate of the cost of baking bread for this hospital on a basis of 350 barrels of flour per year and at the price of $7.50 per barrel.

A barrel of flour weighs 196 pounds. It will make, according to the estimate of bakers, 246 loaves of bread weighing one pound each. If a baker takes the barrel of flour and returns 196 pound-loaves he receives $1.52 for baking one barrel of flour, and for baking 350 barrels he receives $532 per annum.

The cost of baking the same bread on the premises would be, for a good baker, for wages and board, $40 per month; for fuel and other expenses, about $8 per month more, or $48 per month; which for a year would be $576.

The cost of a bakery would be, as per estimate inclosed, about $340.

Thus it appears that the present plan of baking the bread is more advantageous than baking it ourselves.

Respectfully submitted.

G. S. PALMER, M. D.,
Surgeon-in-Chief.

WASHINGTON, D. C., *October* 7, 1877.

Dr. PALMER, *in charge of Freedmen's Hospital:*

DEAR SIR: I have the honor to state that I have made an estimate for a bake-house to be erected at Freedmen's Hospital, viz, a one-story building, 14 by 18; height of ceiling from floor to be 9 feet in clear; to be built of bricks, with an oven inside, to be also built of bricks, 5 by 7 in clear inside, with an iron door in front 18 by 24 inches, opening; to be one door to front and four windows, say 9 by 12=12 lights, with outside blinds; to be a good floor; walls and ceiling to be plastered and hard finish; all wood-work to be painted 3 coats of good paint, of any color; to be a tin roof, with gutters and spouts to rear of roof; to be a good box made, of good size, to mix bread, and a good strong table, made of good clear white pine; and will do all the above work and furnish all materials for the sum of three hundred and forty dollars ($340).

Very respectfully,

G. LACOMBE.
Carpenter and Builder.

B.

HOWARD UNIVERSITY,
Washington, D. C., October 5, 1877.

DEAR SIR: As president of Howard University and representative of the important pecuniary and educational interests connected with it, I would draw your attention to the fact that the amount appropriated by the last Congress for the rent of the buildings and grounds of the Freedmen's Hospital was but $2,000 per annum, whereas the

rent has been $4,000 heretofore, which was a very low rate for the property, which, exclusive of the land, cost over $100,000. The continuance of the just rent is of great importance to the University, and our treasurer has receipted at the rate appropriated by Congress only under protest, as it were, and with the purpose to seek proper relief, which we would do through you as the head of the department immediately concerned.

May I therefore be allowed respectfully to request that you will make such representation of the case to Congress as will secure the additional appropriation needed to make out the full rent?

With high respect, I have the honor to remain your obedient servant,

WM. W. PATTON,
President of Howard University.

Hon CARL SCHURZ,
Secretary of the Interior.

INVESTIGATION OF FREEDMEN'S HOSPITAL.

Transcript of interview between Secretary of the Interior and Assistant Attorney-General of the United States for Interior Department on the one hand and the board or commission appointed to investigate the Freedmen's Hospital on the other.

In the office of the Secretary of the Interior.

Present—Hon. C. Schurz, Secretary; Hon. E. M. Marble, Assistant Attorney-General; R. W. C. Mitchell, secretary to the Secretary; and Dr. Hood, Dr. Ewing, Dr. Walsh, commission.

Secretary SCHURZ (to the members of the board). I have received your report, and also the testimony taken by you. I have carefully read the report, as well as every line of the testimony, together with the accompanying documents, and I have come to the conclusion that there is a good deal of variance between the one and the other. That is, it is very difficult to bring the testimony in accord with the report, and *vice versa*. In order to be thorough and sure in my judgment, I had Mr. Marble go over the report and testimony, and he came to the same conclusion I had reached. Now, I desire some explanation with regard to the matter, because I want to do exact justice in the case.

Mr. MARBLE. Let me look at the beef and flour reports. Then I would like to have a statement as to the number of patients in the hospital, to make some comparisons. (Examining the report.) I find here that the number of patients in January, 1877, was 279, and the number of barrels of flour furnished was 45; in November the number of patients was 280, and the number of barrels of flour furnished was 44; in March the number of patients was 293, and the number of barrels of flour furnished was 45; in April the number of patients was 285, and the number of barrels of flour used was 52. Did you form an estimate as to whether all that flour was used, and whether it was sufficient or more than a sufficient quantity?

Dr. HOOD. I understood we did. I think we did.

Mr. MARBLE. Given in the list running up from July, 1874, did you form an estimate as to whether that was a fair proportion of flour for the number of patients at that time?

Dr. HOOD. I understood we did. We prepared a little statement as to the quantity. We went into that estimate, and it has varied for flour, meats, and all those things.

Secretary SCHURZ. In August, 1877, the number of patients was 255, 24 less than in January; in September, 46 less. And in October and during the same months I find flour 19 in August, 28 in September, and 32 in October.

Dr. HOOD. That is explained this way: When flour was low Dr. Palmer would make contracts and take flour in excess of his actual necessities for that month. He never injudiciously purchased, or to any great extent, because he was in the fear that it would or might depreciate. And that would account for the fact that more flour appears upon his books for the month.

Dr. WALSH. There is another explanation. Prior to the 1st of July it had been the custom of the Colored Orphan Asylum to depend upon the Freedmen's Hospital. For a long time prior to July, 1877, they were furnished bread and milk. On the 1st of July Dr. Palmer peremptorily refused or declined to furnish them further with flour. It appears from that date there was a stoppage.

Solicitor MARBLE:

Question. Did you find out how much had been furnished?

Answer. The matter would probably appear in the account furnished.

Question. I don't see it in the reports.

Answer. It might not appear if it was furnished with other rations.

Dr. HOOD. It will appear in the testimony of the lady manager, Miss Hickox. I don't think, however, a stenographer was employed to take that testimony.

Mr. MARBLE. There was no such witness as that sworn; not that name.

Dr. WALSH. She was sworn, but there is no report of her testimony.

Secretary SCHURZ. The flour furnished in August was 19 barrels; the number of patients 255. The number of barrels of flour furnished in September was 28, and the number of patients 246. There is more flour and nine less patients. Then, in the month of the number of barrels furnished was 32, and the number of patients 255. How is that accounted for?

Dr. HOOD. Only that when flour was low Dr. Palmer purchased in excess of his actual wants.

Solicitor MARBLE. Does it appear that he had accumulated any number of barrels of flour in the months of May, June, and July?

Dr. WOOD. I don't know that it does just in that way; but it was stated that that was the fact, I think, in the testimony of the gentleman who furnished the flour.

Solicitor MARBLE. Does it appear that flour was depreciating in those months—lower than in September?

Dr. WOOD. I don't think that inquiry was made.

Secretary SCHURZ. These explanations can hardly be correct, because the number of patients from July, 1874, until July, 1877, was about the same, numbering between 296 to 270. The number of barrels of flour during that time furnished was about the same, varying between 44 and 52. So that during that whole period there does not appear any accumulation. No accumulation has been made for the purpose of covering subsequent months. That cannot be the explanation. It is simply impossible.

Dr. WALSH. The children of the orphan asylum were furnished with bread.

Solicitor MARBLE. Doctor, does it appear that those children were borne upon the rolls of the Freedmen's Hospital?

Dr. HOOD. No, sir; they were inmates of this orphan asylum. By what authority of law they were provided for I do not know.

Dr. WALSH. Prior to July they were furnished with every article of rations and were borne upon the rolls, I think.

Secretary SCHURZ. Since July they were furnished only with bread and milk.

Dr. WALSH. No, sir; since July they were furnished with nothing, and now, remembering it, prior to that Dr. Palmer furnished them with bread and milk in lieu of everything else.

Secretary SCHURZ. According to your statement they ceased furnishing them at the expiration of the fiscal year.

Dr. WALSH. Yes, sir.

Secretary SCHURZ. Yet in July I find 270 patients and 41 barrels of flour?

Dr. EWING. Dr. Palmer did not cease furnishing them until the latter part of July.

Secretary SCHURZ. Did you find the authority for Dr. Palmer furnishing them?

Dr. EWING. He found these people borne upon the rolls as inmates of the Freedmen's Hospital. I think they were included in the number of inmates.

Dr. HOOD. Dr. Palmer continued to issue just as he found they had been issued by his predecessors.

Solicitor MARBLE. Then, that is, the number of barrels of flour would not appear varied by the number of patients borne upon the rolls?

Dr. HOOD. No, sir.

Secretary SCHURZ. The supply of flour dropped down from 44 to 19 barrels. If he continued to issue until the first of August, how does that happen, with the average number of patients at 255. If he did furnish flour and bread to the asylum, then it cannot be said any of the flour furnished for July went over to August. How is that?

Dr. EWING. The amount of bread furnished to the orphan children was not large. I think it was something like 100 loaves per day, or 100 pounds.

Secretary SCHURZ. That would be only barrel per day.

Mr. MARBLE. How many children in the asylum?

Dr. EWING. There were 105 to 110.

Mr. MARBLE. They must have consumed more bread proportionately than the patients at the hospital.

Dr. EWING. Children growing require as much as laboring men.

Secretary SCHURZ. When was the investigation commenced?

Dr. HOOD. About the flour I don't remember the day. All the flour, let me say, was baked outside of the hospital. Dr. Palmer purchased his flour always with a view to make the purchase at low rates, and the baker gave him a pound of bread for a pound of flour at that rate. As to the whole amount furnished, I find I did not make any inquiry. I freely confess to that.

Secretary SCHURZ. The number of barrels furnished is about the same from July, 1874, for each month [reading from the report]—43, 41, 43, 45, 47, 47, 48; in 1875, 48, 45, 48, 46, 50, 41, 41, 42, 40, 42, 46; in 1876, 40, 41, 40, 41, 42, 42, 43, 42, 41, 45, 46, 44;

in 1877, 45, 44, 45, 52, 43, 48, 41, 19, 28, 32, and so on. There does not appear to have been any accumulation at any time. That does not seem to account for it at all.

Dr. EWING. The orphan asylum, at the rate of 100 pounds per day, would take 15 barrels per month.

Secretary SCHURZ. If I remember correctly from the testimony, it appears that each patient was furnished a loaf per day.

Dr. HOOD. About that. There being 196 pounds of flour in a barrel, they would have used, taking the average of patients to have been about 275, they would have used one and a half barrels per day; 45 barrels per month.

Secretary SCHURZ. The average of the flour used was about 45 barrels; now as the orphan asylum is to come out of that and that got 15 barrels——

Dr. HOOD. A barrel of flour makes 240 loaves of bread.

Secretary SCHURZ. During all that time there was furnished one pound of bread for one pound of flour. That certainly does not explain it. August there were 19 barrels, September 28 barrels; falling short about 13 barrels, difference between July and September. Then in October 32 barrels were furnished. If it is true that the orphan asylum got 15 barrels per month, it is utterly impossible that the patients in the hospital received their rations.

Solicitor MARBLE. Did any proof you had show there had been any accounting between the baker and the man who furnished the flour?

Dr. HOOD. No, sir; not between them.

Solicitor MARBLE. Dr. Palmer had never called for an accounting with the baker in regard to the number of barrels of flour furnished?

Dr. HOOD. Yes, sir; but as between the baker and the man who furnished the flour there was none that we know of.

Solicitor MARBLE. The arrangement was a pound of bread for a pound of flour. Now, did the testimony show that Dr. Palmer had made any statement of account with the baker showing that he had received a proper amount of bread?

Dr. HOOD. It was only stated in general terms by the baker and Dr. Palmer.

Solicitor MARBLE. So you relied upon the verbal statements of the two men?

(No response.)

Solicitor MARBLE. It appears that there was an assistant engineer discharged in May, 1875, and borne upon the pay-rolls, at the rate of $75 per month, until October, 1875; how is that accounted for?

Dr. WALSH. I remember that. I think Dr. Palmer made an affidavit to the effect that the man was borne upon the rolls only for the time employed, but the testimony was so vague it would have been impossible to fix the time when the man left. Even the testimony of the engineer in charge was not specific upon that point.

Secretary SCHURZ. The testimony varies as between the months of May and April, though it was very positive as to the year he was acting as assisting engineer for the month of May, and he was borne upon the rolls.

Dr. HOOD. It was stated that he performed the duties of chaplain for a time.

Secretary SCHURZ. I don't think there is any statement upon the part of Dr. Palmer or any body else that he did any duty.

Dr. EWING. Dr. Palmer explained that in this way: In case the principal engineer was unable to do duty, and he could not do any thing, he would take his place; otherwise the whole operations of the hospital would come to a stand-still.

Secretary SCHURZ. Well, how was it after that man was discharged. Did the whole operations of the hospital come to a stand-still?

(No response.)

Solicitor MARBLE. Did Mr. Calvert, the engineer, afterward get out of health?

Dr. WALSH. The general impression was that Mr. Calvert was liable to be sick at any time.

Solicitor MARBLE. Is there any testimony to that effect?

Dr. WALSH. My impression is that there was some upon that point.

Secretary SCHURZ. There is not a word in the testimony of anything of the kind.

Dr. WALSH. You will remember Dr. Palmer only took charge of the hospital in March, 1875.

Solicitor MARBLE. Dr. Walsh, there are two witnesses who testify that this man was discharged in April or May, 1875, and from all the statements it appears the pay-roll was exhibited to the board, and that it shows that he was upon the rolls.

Dr. WALSH. Then in Dr. Palmer's evidence, his evidence is to the effect that he did duty equivalent to his pay, but he got rid of this man as soon as he could.

Dr. HOOD. He made a statement that he was employed as a chaplain, or something like that.

Secretary SCHURZ. There is nothing of the kind in the testimony.

Solicitor MARBLE. This written statement was read to you and incorporated in the testimony?

Dr. HOOD. Yes, sir.

Dr. WALSH. The testimony of Cole was to the effect that the assistant engineer

remained there until he left to go home and vote for Mr. Hayes. That would make it in 1876, and it was not until the next day that he came back to say it was in 1875.

Solicitor MARBLE. Dr. Palmer in his statement says, in regard to the chaplain and assistant engineer, "His services were merely nominal, as most of the religious exercises were conducted by volunteer preachers from without the hospital. He was discharged and an active, energetic licentiate was employed who did much better service for $25 per month and board. During the second year two theological students were employed to perform the duties of chaplain for their board and $15 per month. I dismissed the assistant engineer as soon as I found his services could be dispensed with. He was receiving $25 per month and board." That is all he states about the assistant engineer.

Dr. HOOD. Dr. Palmer's statement before the board was first verbal, and he may have stated some things that do not appear in his written statement.

Secretary SCHURZ. I have read the statement that appears in the testimony. There was complaint by many patients that when they called for eggs they could not get any. Have you found that to be true?

Dr. HOOD. No, sir; we did not.

Secretary SCHURZ. Well, what did you find?

Dr. HOOD. We found that when eggs were asked for, the patients got them.

Secretary SCHURZ. To what extent?

DR. HOOD. It is very difficult to find that except from the purchases, and the testimony of the patients themselves.

Secretary SCHURZ. As I read the testimony, it appears that only in very rare instances were these people able to get any eggs.

Dr. EWING. The number of eggs was small in per cent. to the number of inmates.

Secretary SCHURZ. I find that the quantity of eggs furnished was very large. In July, 1874, the number was 40 dozen; August, 1874, it was 120 dozen, and so on; in June, 1875, 120 dozen; in July, 150 dozen; in August, 80 dozen; in September, 150 dozen; September, 110 dozen; November, it was 115 dozen; December, 120 dozen; in January, 1876, there were 120 dozen; February, 180 dozen; March, 116 dozen; April, 120 dozen; May, 145 dozen; June, 120 dozen; July, 135 dozen; August, 185 dozen; September, 160 dozen; October, 130 dozen; November, 150 dozen; December, 130 dozen January, 1876, 75 dozen; February, 90 dozen; March, 110 dozen; April, 150 dozen; May, 90 dozen; June, 110 dozen; July, 140 dozen; August, 120 dozen; September, 180 dozen; and in October, 190 dozen. Now, considered according to the testimony, and in view of your opinion, did it not strike you as worth while to inquire into this?

Dr. EWING. One hundred and twenty-five dozen eggs is half a dozen to each inmate during the month.

Secretary SCHURZ. Except in very rare cases they didn't get any at all?

Dr. EWING. That is undoubtedly true.

Dr. HOOD. The special diet cook stated that when eggs were prescribed by the surgeon or physician in charge, an order was issued to prepare the eggs, and that they were always at their service.

Solicitor MARBLE. That does not appear in the testimony.

Dr. HOOD. A good deal of the testimony the board took does not appear in the written testimony. We proceeded at the outset without a reporter and examined some witnesses. After that we had a reporter, and we examined some after the reporter had left.

Secretary SCHURZ. Did you not think that that matter was all-important to the testimony taken? We have a letter from the cook that bears against the management of the institution very heavily.

Dr. HOOD. The diet cook is a woman, and I remember asking her some questions.

Secretary SCHURZ. It appears from the testimony that only in very rare instances the patients were permitted to have any eggs, and I am unable to see in the testimony that that has ever been denied?

Dr. EWING. They certainly got very few eggs. The highest number set down would not supply more than eight or ten eggs to each patient.

Secretary SCHURZ. It is not pretended that each patient got eggs. They were given only in exceptional cases. All the testimony of the defense shows a large number of eggs were purchased, and also shows that a large number is entirely unaccounted for.

Dr. HOOD. A large number of eggs were used in the preparation of puddings.

Secretary SCHURZ. Well, now, here is the bill of fare, and I am unable to see that that is a fact. Sunday, for breakfast: bread, hash, coffee, butter. Dinner: roast beef, bread, potatoes, gravy, bread-pudding. Supper: bread, cheese, tea. Monday—breakfast: corn-bread, hominy, with sirup or gravy, coffee, bacon. Dinner: bread, pork, beans, potatoes, bean-soup. Supper: bread, sirup, tea. Tuesday—breakfast: bread, rice, sirup, coffee, butter. Dinner: bread, fresh beef, potatoes, beef-soup, and so on, right through the bill of fare; and Friday only, I notice, rice-pudding was given for dinner. There is certainly no accounting for the large supply of eggs upon this bill of fare.

Dr. WALSH. I never found it on a full bill of fare in a hospital; it appears only in the special bill of diet.

Secretary SCHURZ. It appears from the testimony that the number of eggs given out, or that the occasions for their use were exceedingly rare, while the supply of eggs was very considerable

Solicitor MARBLE. You have not given any statement about the special-diet table, have you?

Dr. WALSH. I think it is there in the report. Yes, sir, that is one of the dainties, one of full diet, and one of extra diet. Dr. Hood, I think, can tell about those.

Secretary SCHURZ. It is stated, in general terms, there was a variety and a sufficient quantity of food.

Solicitor MARBLE. Your report says: "In addition an extra diet is supplied, and consists of such light articles of food and delicacies as may be directed by the attending physicians. This was found of considerable variety, well adapted to the needs and cravings of sick people, and furnished to a very large proportion of the inmates."

Secretary SCHURZ. Upon whose testimony is that statement made? It seems very positive. The testimony upon which that finding is based does not appear in the testimony you have furnished.

Dr. HOOD. Perhaps the committee overlooked it.

Secretary SCHURZ. Overwhelmingly, all the testimony is that the food was bad, and that they could not have an extra diet when they wanted it; there is very little in the report about that.

Dr. HOOD. I have understood that the committee was instructed to report outside of the testimony; we went as a board to make inquiries outside of that.

Secretary SCHURZ. The evidence for the defense appears in the latter part of the report, so that when you finished the report you had not gone all over the points.

Dr. EWING. We took nothing outside that would not confirm what was taken otherwise; none of the witnesses could point out any continuous time in which there was bad food furnished; they referred to two or three occasions during the summer the meats were bad, two or three days on two or three different occasions; the witnesses did not refer to any continuous time.

Secretary SCHURZ. Did they not testify frequently that a number of the patients were in the habit of gathering up the crumbs?

Dr. EWING. Some of them were collecting what they considered the delicacies.

Dr. WALSH. The impression was very distinct upon me that when we stopped the investigation of the food question, that if we had taken the testimony of all found it would only have confirmed what we had already taken.

Secretary SCHURZ. Have not some of the witnesses for the defense testified as to the bad food?

Dr. WALSH. There was sometimes bad meat and sour bread.

Secretary SCHURZ. Upon whose testimony did the committee rely to come to the conclusion that the food was ample, and sufficient, and good?

Dr. HOOD. Upon the testimony of the baker and the steward of the hospital, and upon the testimony of the butcher who furnished the meat, who is a man of standing, and upon the chaplain, who refused to take bad meat. Then as to the quantity, the testimony appears to be very full.

Secretary SCHURZ. You based your opinion upon the testimony given by the butcher who furnished the meat, and upon the testimony of the steward of the hospital. I find that the inmates of the hospital in their testimony go against that of the butcher who furnished the meat, and that it is so con in the testimony of the witnesses for the defense. Now, do you think the testimony of the butcher, and of the baker, and of the steward should be sufficient as against other disinterested testimony?

Dr. HOOD. I confess it was satisfactory to my mind; possibly I may have been mistaken.

Secretary SCHURZ. Now was there not testimony to the effect that bad meat was passed instead of being refused, at least in one instance?

Dr. HOOD. I think that was stated when there was a question as to whether the meat was bad or not; that is all.

Mr. MARBLE. Did you consider the meat as furnished such as sick patients should have? Such as shins, and hearts, and livers, and things of that kind?

Dr. HOOD. There were furnished, as I understand, about one pound a day of good beef to each of the inmates. I made the inquiry particularly upon that point. That meat was cooked, as I found upon inquiry, in a good way, and the meat that was passed would make boiling pieces and roasting pieces. It was composed of roasting pieces of beef and boiling pieces also.

Question. Upon whose testimony did you base that?—Answer. Upon the testimony of all the parties—the chaplain and the steward and others.

Question. Did not Chapman testify that Dr. Palmer ordered him to pass some spoiled meat?—Answer. There were some bullocks' hearts, and as to them and the tongues I have no doubt some were sent there. But nothing was charged for them. They were

not charged for. I have eaten such things in my family, and I think they were fit for the patients.

Question. You think they were fit for the patients?—Answer. Yes, sir.

Question. Were they fed to the patients?—Answer. Yes, sir.

Question. How long do I understand that they made a difference between the hind and fore quarters? How long has this system been in force there?—Answer. From the time that Dr. Palmer took charge. He found that fore and hind quarters were furnished each day, and the hearts of each were furnished from day to day, including the best cuts of each, what we call tenderloin and sirloin steak.

Mr. MARBLE. If you will reflect, you found that that was only for a short time that they furnished meat by the quarter.

Dr. HOOD. If I am not mistaken I asked the man, "Did you send here to this hospital hind and fore quarters?" and he said he furnished them each day.

Mr. MARBLE. The average was quite large, you say. How was it possible that that man furnished that kind of beef and did not furnish any bad meats?

Dr. EWING. The occasion upon which the meats were bad were quite rare, and it was in the hot weather—in the summer. The meat was spoiled only during a very short time, and the occasions were during the hot weather of summer.

Mr. MARBLE. Does the testimony show when the animals were slaughtered?

Answer. The night before or the morning before the delivery.

Dr. EWING. Meat will spoil in the warm weather. That was Dr. Palmer's explanation of that. He acknowledged that it did occur twice. I do not think that any witness referred distinctly to any number of times. It occurred during the absence of ice and in the summer time.

Mr. MARBLE. The testimony here seems to show that it occurred several times.

Dr. EWING. There were no witnesses to that fact.

Secretary SCHURZ. Did you go over the testimony when you made up the verdict or report?

Dr. EWING. I never read it after it was written down.

Dr. HOOD. We took up each charge and specification and considered it.

Secretary SCHURZ. Did you go over it, and consider it, and read it?

Dr. HOOD. Yes, sir; no, sir.

Question. Did it occur to you that you might have forgotten a good deal after you heard it?

Dr. EWING. I formed my views as I went along.

Dr. HOOD. The report was submitted before the evidence was written out.

Secretary SCHURZ. I find that you report that the hospital was kept in cleanly condition. Upon whose testimony was that opinion based?

Dr. EWING. We went through the hospital upon several occasions.

Secretary SCHURZ. It is stated in the testimony over and over again that a certain improvement took place after the investigation commenced, and that the investigation was made in connection with matters before that time. Now, is not the testimony overwhelming to the fact that the water-closets were in a disgraceful condition, and that the cleanliness of the patients was wretchedly cared for?

Dr. EWING. Those closets were in a bad condition, and for a considerable part of the time; but that is more due to the patients than to anything else.

Dr. WALSH. I do not think there is another hospital in the country that has a lower class than the inmates here.

Mr. MARBLE. Did you base your opinion at all upon the testimony you took?

Dr. HOOD. Yes, sir. We made a good many inquiries as to the condition of the hospital, and what it was, during the investigation.

Mr. MARBLE. This is what you found: [Reads from report.] "It was found by personal inspection that the bath-rooms, water-closets, &c., were in as good condition as could be expected, especially when the plan of the hospital-building and character of the inmates are taken into consideration." It does not refer to a word of testimony, and yet this is what you say.

Secretary SCHURZ. It does not refer to the testimony that it was formerly very bad. The testimony as to the state of things before the investigation commenced seems to be out of consideration, and it is always without contradiction.

Dr. EWING. There was considerable contradiction.

Secretary SCHURZ. There was contradiction upon the part of the medical students, who were the beneficiaries of Dr. Palmer themselves.

Mr. MARBLE. Do you think, as you state in your report, that there was a sufficient inspection, as there should be in a hospital of that kind?

Dr. HOOD. There was hardly as much inspection as there should be.

Solicitor MARBLE. Do you consider the urinals should have remained out of repair as long as they did in the hospital?

Dr. HOOD. Perhaps not.

Dr. EWING. That was a mistake.

Solicitor MARBLE. How long did you find from the testimony they were out of order and in no condition for use?

Dr. HOOD. A considerable time.

Dr. EWING. Two weeks.

Dr. HOOD. When the engineer was sick they wanted more repairs; I don't know what. He could not make any repairs. But in my experience in the Army—during the war—I found it impossible to keep water-closets in the hospitals so that they wouldn't offend.

Secretary SCHURZ. It is always impossible to keep them in repair and to —— the patien's the use of them?

Dr. HOOD. No, sir; it is not.

Secretary SCHURZ. Is not cleanliness most indispensable for the welfare of the inmates?

Mr. HOOD. Yes, sir.

Solicitor MARBLE. Do you consider it proper that different patients should use the same towels and basins in the same ward?

Dr. HOOD. No, sir; I don't.

Solicitor MARBLE. What did you find to be the fact?

Dr. HOOD. The testimony is conflicting. There are two classes of patients there. One, the idiotic, insane, and blind; these were furnished towels in the main, and the sick were furnished separate towels. That is, if a man was suffering from a contagious desease he was furnished with a towel for himself.

Secretary SCHURZ. There were separate basins?

Dr. HOOD. Yes, sir.

Secretary SCHURZ. Does that appear from the testimony?

Dr. HOOD. I think so.

Secretary SCHURZ. I think it does not.

Dr. WALSH. There never was a single instance that there was a case of disease being communicated from one to another by the use of the same utensils.

Solicitor MARBLE. It was claimed there were changes every day of the towels; but when the nurse came in to testify, he said that was not so, and instead of the patients having towels, that they didn't have them, and that instead of their being changed as often as stated they were changed once a week.

Dr. HOOD. I think that is true; and we took the testimony of the nurse.

Solicitor MARBLE. That is the testimony of the nurse.

Dr. HOOD. That was contradicted.

Secretary SCHURZ. Who would be most likely to know, the nurse?

Dr. HOOD. Yes, sir.

Dr. EWING. A person who was familiar with the case would put less stress upon the reading of the testimony than upon the hearing.

Secretary SCHURZ. Why?

Dr. EWING. The first witnesses were the witnesses for the prosecution. We find that when Felton was present they testified altogether differently from what they otherwise did.

Secretary SCHURZ. Is there a single scintilla of evidence to the effect that there was an agreement between the witnesses as to the testimony they were to give?

Answer. No, sir; I can't say there is.

Question. Is there a single scintilla of evidence to show that they were not told to tell the truth?

Dr. HOOD. They testified one way and then the other.

Secretary SCHURZ. Why has the most important evidence, that upon which you base your verdict, been kept from me?

Dr. EWING. Several of the witnesses contradicted themselves.

Secretary SCHURZ. Why was not the question asked "you said so and so?" They were very sharply cross-examined by Mr. Riddle.

Dr. EWING. Mr. Riddle had not read the testimony at that time. We went forward upon the idea that we had enough evidence as to what construction should be put upon the evidence.

Secretary SCHURZ. You based your decision upon things outside of the testimony?

Answer. Yes, sir. I want to say to you frankly, Mr. Secretary—for the reason that we were appointed to inquire upon certain charges and to make a report based upon the testimony, and trusting our judgment as to any inquiries we should make—had I known that it was contemplated to have a reporter, and keep the questions and answers as they were given, it would have been done, but I ought to say, as a matter of fact, that we had taken two days testimony and a half before we had a reporter.

Secretary SCHURZ. In two days you could not have omitted very much?

Answer. You understood, Mr. Secretary, there was no one present except the committee.

Secretary SCHURZ. You had the same witnesses over and over again?

Answer. Yes, sir; and they seemed to show that they had been trained, and seemed to know what they had to say.

Secretary SCHURZ. Is there any evidence as to that?

Answer. None, except that they changed their evidence.

Dr. HOOD. Mr. Felton changed his testimony considerably.

Mr. MARBLE. Mr. Felton was not sworn.

Dr. HOOD. Johnson's testimony, then, was changed.

Mr. MARBLE. He was examined in the most rigid way, and the testimony he gave was unimpeached.

Dr. EWING. He is impeached by his own counsel. Johnson testified that he preferred the charges, and then Felton came forward and said that he drew them up.

Secretary SCHURZ. Here you have the evidence of Calvert—his testimony is very clear; and then Robert Johnson—that was the second time he was examined?

Answer. Yes, sir.

Secretary SCHURZ. Was it he that made the charges?

Answer. I don't think he did. I think it was Johnson; yes, sir, I think it was Johnson.

Mr. MARBLE. What kind of impression did the testimony of Daniel Potter make upon you?

Dr. HOOD. That he was a very much prejudiced witness.

Mr. MARBLE. Why, he was in the cook-room at that time.

Dr. HOOD. Potter was a white man.

Mr. MARBLE Had he been a cook?

Answer. No, sir.

Secretary SCHURZ. Did Calvert or Johnson change his testimony as to the real points in issue? Did you examine David Robinson twice?

Answer. I think not.

Secretary SCHURZ. William Brown—did you examine him first without a reporter?

Answer. Yes, sir; I think we did; I am in doubt; I think a stenographer was present.

Dr. EWING. I think he was.

Secretary SCHURZ. Did he change his testimony?

Dr. EWING. As to that precise point I don't know.

Secretary SCHURZ. Did he change his testimony as to the condition of the Freedmen's Hospital, and as to the food furnished?

Answer. I can't say what it was.

Mr. MARBLE. Did you think he was a prejudiced man?

Dr. HOOD. Yes, sir; it struck me that he was; by his manner it appeared to me that he was prejudiced against Dr. Palmer; he was extremely anxious to testify.

Mr. MARBLE. He was called upon as a rebutting witness?

Dr. HOOD. I don't recollect. I think he came in early in the investigation.

Mr. MARBLE. Daniel Potter says that he did not perform any duties at the hospital, except that he weighed and supplied the men with food on their plates. The question is asked—

(Mr. Marble here read from the testimony:)

"Question. It has been testified here that the butcher did not furnish beeves' jowls or cheeks to the hospital; what have you to say to this statement?

"Answer. I say he did, during June, July, and August.

"Question. How often were they furnished?

"Answer. Every Saturday.

"Question. How were they cooked?

"Answer. Boiled.

"Question. To whom were they served?

"Answer. In the mess-room.

"Question. It has been testified that the butcher did not furnish beeves' shins to the hospital; what do you say to this statement?

"Answer. I think he furnished the joint that we call in England the shin, but perhaps may be called here the leg, however.

"Question. It has been testified that the butcher furnished fresh tongues only a few times; what have you to say to this statement?

"Answer. The butcher furnished beeves' tongues almost every Saturday, and other parts of the week.

"Question. How were they cooked?

"Answer. Boiled.

"Question. What was done with them?

"Answer. Put in with the stew, and served in the dining-room.

"Question. It has been testified that the butcher furnished hearts only a few times; what have you to say to this statement?

"Answer. He furnished beeves' hearts almost every Tuesday and Thursday.

"Question. How were they cooked?

"Answer. Roasted with other meat.

"Question. What was done with them?

"Answer. Served in the dining-room.

"Question. What knowledge do you possess, if any, as to the anatomy of beef-animals?

"Answer. I was with my brother in the business of meat furnishing, in England.

"Question. What knowledge do you possess of the different grades of beef-animals?

"Answer. I know that there are three or four grades of meat; that that which was furnished here was of the lowest description; the meat some of it but only an inch thick, or three-fourths, on the bone.

"Question. It has been testified that all the fresh meat furnished at the hospital would make steaks or roasting-pieces; what have you to say to this statement?

"Answer. I say it would not.

"Question. What kind of meat are fresh tongues, hearts, and shins considered?

"Answer. Tongues and hearts are not considered meat; it is considered offal.

"Question. It has been testified that the salt-pork furnished the hospital has been of a quality; what do you say to this statement?

"Answer. I say it was not. The salt-pork delivered was not marketable. I have investigated the market three times, and could find it at 6½ cents of better quality than was delivered here.

"Question. It has been testified that the salt beef furnished was of good quality; what do you say to that?

"Answer. I say it was not.

"Question. It has been said that good bread has always been furnished; what have you to say to that statement?

"Answer. I say it was not; up to the time the investigation started it was generally sour.

"Question. It has been stated that mackerel that has been furnished this hospital was of good quality; what do you say to that?

"Answer. I say it was not; even the butler would take it out.

"Question. Who was the butler?

"Answer. The cook."

Dr. HOOD. I want to say, Mr. Secretary, a specimen of the meats pronounced by Mr. Potter to be stinking was shown to the committee.

Secretary SCHURZ. Who showed it to the committee?

Answer. I think it was Dr. Glennan. He brought it to the committee and showed it as a specimen of what Potter had refused to eat. It was just such quality as I use.

Question. Was there any testimony that Potter was dissatisfied?

Answer. Yes, sir; I think so.

Question. Dr. Palmer's baker and grocer, do you think they were prejudiced witnesses?

Answer. Yes, sir; I might think so. I don't think any unprejudiced party could have heard the testimony and reached any other conclusion than that the charges originated in bad feeling. It was apparent all over that that was the fact, that the charges originated and were carried on in bad feeling.

Question. Did you ever hear of any charges that originated in good feeling?

Answer. Both of the prosecuting witnesses, Felton and Johnson, showed considerable feeling. They talked about bad bread when it was proved that sour bread was brought only twice.

Secretary SCHURZ. I must call your attention to the fact that you have not based your opinion upon the testimony that you have brought before me.

Dr. HOOD. If I made such a statement I want to retract it. I don't believe Dr. Palmer was criminal at all. I want to say that the hospital, particularly the water-closet and bath-room were badly kept; it was almost impossible to keep them well.

Secretary SCHURZ. Do you believe that sufficient inspection was used to keep things in as good order as they should be?

Dr. HOOD. If I had been in charge I would have kept the hospital in better shape, that I am frank to say.

Secretary SCHURZ. You would not have permitted the water-closets to have been out of order as long as they were?

Dr. HOOD. They were certainly out of order.

Mr. MARBLE. Do you remember Nathan Street?

Dr. EWING. I don't recollect him; I think the person who wrote that testimony has made a mistake in the name.

Mr. MARBLE. This is what he testifies to (reading from the testimony): "Question. It has been testified here that the head nurse ordered you to use two basins and two towels in washing the patients' faces and hand hands, that were confined to their beds; what do you say to this?

"Answer. That is not so, sir; no, no.

"Question. What order did he give?

"Answer. Not any; O, no.
"Question. How many basins were you in the habit of using?
"Answer. I am in the habit of using two now.
"Question. Formerly, how many?
"Answer. One wash-basin, as far as my memory serves me.
"Question. Did you use one or more towels in wiping their faces?
"Answer. Generally have two towels since I can remember.
"Question. Always the case?
"Answer. I won't say always the case.
"Question. It has been testified here generally that it has always been the practice to change your towel every day?
"Answer. It is not so, sir.
"Question. How long would the ward towel be in use?
"Answer. Most generally every Friday we would make a change.
"Question. Then that is only once a week—the towel would be used for the whole ward?
"Answer. Pretty nigh, until lately.
"Question. Within what time has that change taken place?
"Answer. Since this committee has been going on this change has been made."

Dr. HOOD. Have you the testimony of the matron? The testimony of this woman distinctly denies that. That man—I can't recollect his name—that was in the old people's ward.

Mr. MARBLE (Reading from Nathan Street's testimony):
"Question. What is your occupation?
"Answer. Nurse.
"Question. Where?
"Answer. No. 1 ward in this hospital.
"Question. How long have you been a nurse in this hospital?
"Answer. Now in the seventh year."

Mr. MARBLE. After he testified Dr. Walsh asked this question:
"Question. What was the condition of the meat that Mr. Felton threw away—good or bad?—Answer. I don't think it was very good.
"Question. It was not good meat?—Answer. It was not very good; it was tainted, close meat. Both the meat and the bacon also."

Secretary SCHURZ. Would you call the matron an interested witness?

Dr. HOOD. I think she was prejudiced against Dr. Palmer.

Dr. EWING. I think all the inmates had some prejudice.

Secretary SCHURZ. It seems that unless patients and employés testify pretty nearly upon one side they are to be taken as prejudiced witnesses.

Answer. I think that is true.

Secretary SCHURZ. Upon the other hand we find the butcher, the baker, Dr. Palmer, and a few medical students; and upon that testimony you based your decision entirely favorable to the hospital.

Dr. HOOD. Not wholly.

Secretary SCHURZ. It is rather a compliment to Dr. Palmer for the efforts he has made to reform the hospital. That is about it, isn't it?

Dr. WALSH. I went there prejudiced very much against Dr. Palmer on account of certain affairs. In less than a week, when I took the testimony into consideration, I came to the conclusion then that he was conducting the hospital well.

Secretary SCHURZ. What testimony did you consider?

Answer. The testimony of the patients and the inmates in the wards as to the manner in which they were treated.

Secretary SCHURZ. The testimony that appears there does not bear that out.

Dr. WALSH. We moved among those patients, and it certainly struck us so.

Secretary SCHURZ. That is outside of the evidence.

Dr. WALSH. The matter of Wallace, where Dr. Purvis said "I will give you these pieces of plank"—he said it had never happened; and a number of other things changed my mind.

Dr. HOOD. I distinctly understand that you wanted the opinion of your committee as well as the evidence. I did not contemplate that we were to make any such inquiry. We based that report upon certain things that do not appear in the testimony.

Secretary SCHURZ. Well, I find your opinion differs very materially from the impression produced by the evidence. Did you find any warrant in law for the feeding of medical students from Howard University? Tell me that.

Dr. HOOD. No, sir.

Secretary SCHURZ. Did you not consider that act so directing a part of the appropriation made to the support of the hospital——

Dr. HOOD. We found young men who were called resident students. We found that Dr. Palmer, when he took charge of the hospital simply continued them. We made inquiry as to the authority, and we found they were employed about the hospital as

nurses, and all that kind of thing, and we came to the conclusion, after considering it, that there was no warrant of law.

Secretary SCHURZ. We can find no *law* regulating the Freedmen's Hospital; we find only the appropriation bill.

Mr. MARBLE. Did you not find there were two wards left with only one nurse in charge?

Dr. HOOD. That was sometimes the case. That was before Dr. Palmer went there.

Mr. MARBLE. Do you consider that was caring for the patients?

Dr. HOOD. Many of these people remained there for months and months—they are people who take care of themselves. These men did not require nurses at night. We made up our minds that as many nurses had been furnished as the condition of the appropriations would allow, considering all the difficulties.

Dr. EWING. Dr. Palmer is paying more nurses now than the appropriations allow—so many nurses are specified in the appropriation. There is a specified amount for nurses, and he finds it is not enough. In each of these wards there should be night-nurses, but I don't think Dr. Palmer has appropriations enough to carry on a first-class hospital.

Mr. MARBLE. Do you think he should call upon patients to carry out dead bodies?

Dr. EWING. If a patient objected, I don't think he should be called upon.

Mr. MARBLE. Would it be beneficial to that man's recovery?

Dr. EWING. It would not be backward to his recovery.

Dr. HOOD. It would not hurt Johnson in the least.

Mr. MARBLE. Do you make any suggestions to the Secretary as to this year, or any recommendations upon which he can base other recommendations, or anything in regard to changes in the hospital?

Dr. HOOD. That is not in——

Mr. MARBLE. Would the Secretary get any idea that there is an insufficiency of help in the hospital?

Dr. HOOD. I thought they didn't have enough. I didn't consider that question germane to the inquiry. I think if we had, that we would have traveled outside of the matter of our inquiry.

Dr. EWING. Our inquiry was, Is this hospital carried on as it should be?

Secretary SCHURZ. And your opinion is that it is?

Dr. EWING. It is not a first-class hospital at all. Dr. Palmer has, I think, at times, had more persons there than there should be.

Mr. MARBLE. Did you find him keeping any regular set of books and accounts?

Dr. HOOD. Yes, sir, we did; every paper was carefully filed away.

Secretary SCHURZ. You state that as to the amount of flour furnished to the baker, and the amount of bread furnished by the baker, the only thing you saw was the statement that Dr. Palmer received a pound of bread for a pound of flour; did you find anything showing the accounts governing such transactions? Did you find any books upon that question?

Dr. HOOD. Chapman testified to his receipting for so many loaves of bread each day.

Secretary SCHURZ. Did he give the figures?

Dr. HOOD. I don't think he did. The inquiry was made in such a way as to satisfy me that it was all right.

Secretary SCHURZ. If satisfied with the statement that "it is all right," it is very easy, then, to come to the conclusion you have.

Dr. EWING. I didn't feel that we should go any further in this matter, because that matter had been examined by a committee a short time before.

Mr. MARBLE. There was a charge of misappropriations of funds, and the natural inquiry would be and was: What account was given of the funds; what books were kept, and what checks were used in that connection? The surgeon-in-chief had to look after all the expenditures, and he ought to know from day to day as to the appropriations; where they were going to, and what they were going for.

Dr. HOOD. I think he has those books.

Mr. MARBLE. Have you examined those books as to their bearing upon his business qualifications?

Dr. WALSH. We had furnished to us his accounts and his pay-rolls for each month, and vouchers for every dollar that he paid out; all the papers were filed month by month; we had them all and looked into them.

Mr. MARBLE. Was there any account kept by his steward as to the amount of bread and the amount of meat?

Dr. HOOD. The steward kept a book showing so many pounds of bread and so many pounds of meat.

Mr. MARBLE. Did you prove that person's accounts by the baker's books?

Dr. HOOD. It would take a great length of time to have done that.

Mr. MARBLE. You were not required to find a verdict within a specified time?

Secretary SCHURZ. I had several private talks with Drs. Hood and Ewing, in which

I said I wanted to get at the bottom of these things, and the matter of time did not come up.

Dr. HOOD. Yes, sir, that is correct. As to the accounts, it occurred to me that vouchers would be had here from the officer who pays these accounts; I heard it could be done much more satisfactorily.

Secretary SCHURZ. The question is, whether the hospital received what it was charged with having received upon the vouchers? Do they show that receipt—the material upon which the voucher was paid and for which it was paid? I have no doubt the hospital was the proper place to inquire into this. There is a charge that funds have been misused. Take the article of bread, or meat, or of eggs; what is there to show that no funds have been misused? Is there anything in the testimony?

Dr. HOOD. As to the eggs, we passed through the wards and questioned the patients. We would question them like this: "How long have you been here?" "How many months?" &c. "Have you been applying to get eggs?" "If you have, have they been denied to you?" "What have you had?" &c., and, I think, at all times they got what they called for excepting a few things upon the special-diet list.

Secretary SCHURZ. How does it happen that the defense didn't call a single person to testify as to these things?

Mr. MARBLE. Are there many dangerous men in the hospital?

Dr. HOOD. O, no, sir.

Mr. MARBLE. Do you remember the testimony of Owen Chase as to Tom Johnson?

Dr. HOOD. Yes, sir; he is an idiot, about as harmless as any animal could be. He might get angry and strike a heavy blow.

Mr. MARBLE. Do you remember the testimony about his treatment of the boys and the women?

Dr. HOOD. Yes, sir.

Mr. MARBLE. Do you consider he was a proper man to be around—to be running around loose?

Dr. HOOD. It would be better not to have him there; he ought to be confined in a cell.

Mr. MARBLE. It has been going on for years. Was it good management to allow such creatures as that to run loose about the hospital?

Dr. HOOD. There is no testimony that he ever reached the women. He is certainly not a very nice companion for the boys.

Mr. MARBLE. And the testimony shows that he waylaid these boys and got into their beds at night.

Dr. WALSH. He attempted something of that kind.

Mr. MARBLE. If he was the powerful beast he is reported to be, he could do some considerable harm.

Dr. HOOD. He is not so terrible, but he has no business there.

Dr. EWING. He is a relict of the old Freedmen's Bureau.

Secretary SCHURZ. Do you think, under the appropriation as it now is, sufficient care has been used to make that hospital what it might be?

Dr. EWING. That was my impression; that that hospital is as well conducted as the amount of funds at the disposal of Dr. Palmer can make it.

Secretary SCHURZ. Would it require any large amount of funds to institute a sufficiently strict system of inspection?

Dr. EWING. Nothing could be done without further expenditure.

Secretary SCHURZ. Don't you think the lack of inspection was the cause of many of the complaints made?

Dr. EWING. The inspection would obviate some of the complaints.

Secretary SCHURZ. Is not a system of inspection one of the most essential proofs of good management?

Dr. HOOD. Yes, sir; I think so.

Secretary SCHURZ. Might not that hospital have been kept more cleanly without further expense?

Dr. HOOD. The evidence was rather to the contrary upon that. The nurses all testified that they have done as well as they could.

Secretary SCHURZ. As to the food; the butcher swears as to the money he received he did furnish as good as he could. Should not the meat have been good?

Dr. EWING. Yes, sir; and I think the testimony is that, with few exceptions, the meat was good.

Dr. HOOD. The food is, as I believe—the meats were good merchantable meats; they were not such meats as can be bought for 25 cents per pound; and, as to the prices, I think there can be no exception taken.

Secretary SCHURZ. They would furnish a large amount of meat—a whole side at once; now, when they furnished meat in that way, they should get just as good as you or I get?

Dr. HOOD. No, sir; there are poor bullocks and good bullocks; you will find one class of cattle where they charge more than for another. Some butchers sell finer meat

than others. There is great distinction in this respect. Look at the question of fancy butter; you can get good butter at 35 cents, and other butter at $1 per pound.

Secretary SCHURZ. At the prices paid should he not have furnished a good quality of beef, where they furnished a whole side?

Dr. HOOD. Yes, sir.

Secretary SCHURZ. Would you call lean beef or lean beeves good quality?

Dr. HOOD. There are different qualities.

Secretary SCHURZ. What price was paid for the beef?

Dr. HOOD. Eight cents; and from the testimony produced I got it into my head that the butcher never furnished anything but the fore-quarter beef; it is much cheaper than the hind-quarter.

Mr. MARBLE. Hoover didn't furnish any quarters except latterly.

Secretary SCHURZ. And then it depended upon what part of the quarter he furnished?

Dr. HOOD. Yes, sir; to a certain extent.

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